

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Monday, November 15, 1965, at 2 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Claude L. Albea, Sandy R. Jordan, Milton Short, Jerry Tuttle and James B. Whittington present.

ABSENT: Councilmen Fred D. Alexander and John H. Thrower.

The Charlotte-Mecklenburg Planning Commission met with the City Council for the purpose of hearing petitions for changes in the Zoning Ordinance and/or Map of the City of Charlotte, with the following members present: Mr. Sibley, Chairman, and Mr. Ashcraft, Mr. Jones, Mr. Olive, Mr. Stone, Mr. Tate and Mr. Turner.

ABSENT: Mr. Gamble, Mr. Lakey and Mr. Toy.

INVOCATION.

The invocation was given by the Reverend L. W. Topping, Associate Minister of First Presbyterian Church.

MINUTES APPROVED.

Upon motion of Councilman Short, seconded by Councilman Tuttle, and unanimously carried, the Minutes of the last meeting on November 8th were approved as submitted to the City Council.

HEARING ON PETITION NO. 65-88 BY THE PRESBYTERIAN HOME OF CHARLOTTE, INC., TO AMEND THE CITY CODE, CHAPTER 23, ZONING ORDINANCE, ARTICLE III, SECTION 23-31, TABLE OF PERMITTED USES, TO PERMIT "NURSING HOMES, REST HOMES AND HOMES FOR THE AGED, SUBJECT TO REGULATIONS IN SECTION 23-43, IN ALL SINGLE FAMILY RESIDENTIAL DISTRICTS (R-6, R-9, R-12, R-15)" AND AMEND ARTICLE IV, SECTION 23-43 BY REQUIRING THAT THE USES STATED ABOVE SHALL OBSERVE THE MINIMUM AREA, YARD AND HEIGHT REGULATIONS.

The public hearing was held on Petition No. 65-88 by The Presbyterian Home of Charlotte, Inc. to Amend Chapter 23, Zoning Ordinance, Article III, Section 23-31, Table of Permitted Uses, to permit "Nursing homes, Rest homes, and homes for the Aged, subjects to regulations in Section 23-43", in all single family Residential Districts (R-6, R-9, R-12, R-15), and amend Article IV, Section 23-43 by requiring that the uses stated above shall observe the following minimum area, yard and height regulations:

(1) SINGLE FAMILY DISTRICTS

District	Minimum Lot Area For Each Five Resident Patients	Minimum Distance From any Lot line to Building	Minimum Side Yards on any side abutting non-residential District	Minimum Unobstructed open Space (% of Total Lot Area)	Maximum Height (Except as provided in Sec. 23-45)
R-6	6,000 sq. ft.	25 ft.	8 ft.	50	40 ft.
R-9	9,000 sq. ft.	30 ft.	8 ft.	60	40 ft.
R-12	12,000 sq. ft.	35 ft.	10 ft.	65	40 ft.
R-15	15,000 sq. ft.	40 ft.	10 ft.	70	40 ft.

(2) MULTI-FAMILY DISTRICTS

The minimum lot area required for each five (or remainder over a multiple of five) resident patients shall be the same as a minimum lot area requirement for each family in the Multi-Family District in which the use is located. Yard and height requirements shall be the same as specified in Section 23-41.

Mr. Fred Bryant, City Planner, advised this is a text change and the request was originated by the Presbyterian Home of Charlotte, which request was filed merely to permit Homes for the Aged, Resting Homes, etc., in single family districts but it was filed with the request that the Planning Commission consider it from the standpoint of including in it any type of control the Commission thought was appropriate in order to make it more in keeping with single family residential districts. This was done and the items that are listed in subparagraph (1) are the result of the Commission's action. The Commission felt that there should be at least two types of controls introduced into this text change if it was made. First, it was felt there was need to introduce some area requirements that would keep the density of the number of resident patients in line with the normal requirement for single family districts. For example, in R-15 district 16,000 sq. ft. of land area is required for each dwelling unit. The ordinance change, as shown, would require for each five resident patients in a Home there would have to be 15,000 sq. ft. of land. The second thing that was introduced by the Commission concerned yard requirements. The Commission felt that what could be one of the unsatisfactory aspects of permitting Rest Homes, etc., in single family districts was where an existing house on a small lot, with small side yards, etc., was converted into this type of use, and that something above and beyond the normal yard requirements should be included. So in the same subparagraph (1) you find that the minimum distance from any lot line to building ranges from 25 ft. to 40 ft. depending on which single family zone you are concerned with. For example, in an R-15 district this would mean that a building could be used for Nursing Homes, etc., only if it was at least 40 feet from any property line. These are basically the controls that were introduced in this change by the commission but it is basically still a request filed by Presbyterian Home of Charlotte.

Councilman Tuttle asked if the 6,000 sq. ft. would be a lot 50 x 50 and if the minimum distance from any lot line to building means either side? That in the case of a R-6 district it would be 25 ft., and it would throw you into the center and you would have to have a half inch wide building? Mr. Bryant stated that is correct; this is the real key to it. The idea is to permit this type of usage only on the larger lot and to

permit them only on lots that provide some open space between the building and any adjacent single family residence.

Councilman Short asked Mr. Bryant if the provisions that prevail with reference to Hospitals, Churches, etc., in residential areas are similar to this - for example, 25 ft. with 40 ft. height? Mr. Bryant replied they are the same. Councilman Short said then one might be faced with the possibility of a 40 foot building being 25 ft. or 33 ft. away from your house in an R-6 zone? Mr. Bryant replied that is correct provided the lot was wide enough it would be possible to build a building 40 ft. high on a 25 ft. side line, or 31 ft. away from the adjacent house because in the R-6 zone you only have to have 6 ft. on one side and 8 ft. on the other side.

Mr. Ben Horack, Attorney representing Presbyterian Home in Charlotte, stated this proposed amendment to the ordinance comes to the Council after full consideration by the Planning Commission, who worked out the safeguards which Mr. Bryant referred to. That the proposed ordinance does not relate to any particular portion of our city, but it is a proposal that will encompass the whole city and perimeter area covered by zoning laws where single family areas are located. That he has appeared before Council on a number of occasions with reference to zoning matters but he honestly believes as far as his own personal involvement is concerned he considers this the most single important zoning matter that he has participated in. He feels that way because this ordinance affects something that is very basic, it basically will decide the direction that this community will take in facing up to its responsibility for a fast growing segment of our population that is ill equipped to speak for itself that the proposed amendment has a past history - not the amendment itself but in a general way. Last spring a petition by Mrs. Bonnie Little was filed applying for a change of zoning classification to a 20 acre site on Sharon Road from R-12 to R-12MF. It is common knowledge that the Presbyterian Home in Charlotte was interested in Mrs. Little's property as a site for its proposed Home for the Aged. That the petition by Mrs. Little, which was approved by the Planning Commission and the City Council, generated strong and uncompromising opposition from neighbors in the immediate vicinity to the 20 acre tract. That a lot of things were said about the petition but he believes that the basic attitude of those who were in opposition was best summarized by one lady who stated "she feels that the people in that area with reference to the petition were a heck of a lot more interested in pediatrics than they were geriatrics." Thereafter, basically this same group of protestants brought a legal action to enjoin the issuance of a building permit, or to enjoin the action of City Council from becoming effective on a variety of legal grounds, and that action is still pending. That the Presbyterian Home people still have an interest in that 20 acre site, but the ordinance they are asking considered this afternoon is entirely different in its scope, and much more is involved; and they conclude correctly that what they are talking about this afternoon has nothing to do with the other petition. Mr. Horack stated the reaction of the neighbors to the Little petition, if not too harsh, the callousness evidenced by what he just alluded too has pricked the consciences of this community with reference to its responsibility to the elderly and to the people who are the normal occupants of Rest Homes and Nursing Homes. That the proposed ordinance is whether you are going to allow these three types of facilities - Homes for the Aged, Nursing Homes and Rest Homes - in single family areas. That under the existing ordinance, these facilities are allowed only in multi-family districts, office districts, and business districts. That he would say the basic question to be resolved at this hearing and the basis of the ultimate decision is whether this amendment is basically sound and is it right? Is this change necessary to fulfill the basic community needs? Will the public welfare be served by this proposal? And can this responsibility to the elderly and similar people that this

community has, be served and effectuated to the means of this proposed ordinance, and at the same time provide safeguards that will not unreasonably impinge upon the single family residences in these districts? If we are barking up the wrong tree, Council should decide that the objectives sought to be served are not correct, are not fair and not reasonable, then he urges that the amendment be turned down. On the other hand, if Council reaches a different conclusion, then he can come to only one conclusion and that is that the adoption of this amendment is long overdue.

That they went to some pain to ascertain whether they were on sound ground in petitioning for this amendment and he and his associate went up to Chapel Hill to the Institute of Government and talked with Mr. Philip Green, who is the acknowledged authority on zoning and planning in the State, and who has authored many zoning ordinances for many communities throughout the State and assisted on many, many more. That Mr. Greene was very helpful; their discussion was most enlightening, and he referred them to a treatise by a Mr. Bassett who in his own right is the acknowledged Dean of Zoning in the United States. Mr. Bassett comes out four-square in support of the proposition encompassed in our proposed area. He says that such humanitarian institutions belong as a matter of right in the sunniest, airiest, least congested, most uncluttered areas afforded by the highest zoning classification.

Mr. Horack stated that he has observed that zoning laws fulfill two basic functions. First, it has a protective feature and lines are drawn and ordinances are drafted and adopted in order to protect certain areas, certain types of uses, certain types of residences from something. Secondly, to formulate districts under rules and regulations that an ordinance encompasses which will make it possible for certain types of uses and certain types of institutions to come into areas where they rightfully belong. Typical of these kinds of institutions are hospitals, schools, churches, colleges, dormitories, Y.M.C.A.'s, Home for the Aged, Rest Homes and Nursing Homes. Mr. Bassett said that it did not occur to the drafters of the ordinance, and they are talking about the daddy rabbit ordinance of the City of New York, that there was the remotest possibility that churches, schools and hospitals could properly be excluded from any district. They considered that these had a proper place in the best and most open localities. He refers to the fact that there are sometimes objections to this, and he asked where shall Hospitals, Homes for the Aged and these sort of humanitarian things be built if they are not allowed in residential districts? Shall they be excluded from the district that has the greatest abundance of light and air? They are allowed in residential districts as a matter of right. Then Mr. Bassett addresses himself to a situation such as ours, where you have a variety of residential districts, and says this: "The variety of residential districts was a temptation to Council to exclude humanitarian institutions from the most open ones which are those with the higher character. It seems easy enough to bring a certain exclusiveness to such districts by omitting institutions and hospitals from the permitted uses. It was difficult to see why hospitals and these other institutions should be forced to be located in congested residence districts by excluding them from the most open ones." It is evident that such exclusion from the open districts is based not on the public health, moral and general welfare, but on a desire to employ the new device of zoning to make exclusive districts more exclusive.

Mr. Horack stated that while they were in Chapel Hill, they looked through drawer after drawer of zoning ordinances from communities and cities all over the country. That he can report to Council, that characteristically such humanitarian institutions are generally allowed in single family areas.

That among the ones they examined are the ordinances of Pittsburg, N. Y., Chicago and others. That this shows an indication that this has been fairly well thought through by zoning people from coast to coast. That the principles Mr. Bassett referred to are not new to Charlotte in reference to our own zoning ordinance, because they are already recognized in our existing zoning ordinance when we permitted schools, churches, colleges, Y.M.C.A., dormitories, and Hospitals and Sanitoriums in single family areas.

Mr. Horack asked if a hospital is to be allowed in a single family area, as it is now, how can we conclude and distinguish and legislate to exclude a Home for the Aged from the same single family district? He asked Council to compare the situation at Charlotte Community Hospital with what they would envision as a typical in-residence Home for the Aged type facility where you do not have the going and coming, do not have the visitation problems, where you have in essence a home for people who are elderly. So his point is very obvious; how can you exclude that and yet allow institutions such as hospitals in single family area? He stated there is another requirement that is Council's duty to consider and that is the safeguard which Mr. Bryant alluded to. He is quite right, there are two basic safeguards. One is the square foot requirement which controls the population density in proportion to the number of people who can occupy a particular area. That this is saying if you are going to have a Nursing Home, Rest Home or Home for the Aged, you must have 6,000 sq. ft. for each five people, and similarly 9,000 for each nine in R-9, and similarly with R-12 and R-15. That either Mr. Short or Mr. Tuttle asked if these same side lines and setbacks requirements were also applicable to a hospital and other institutions; that is true with reference to the side line, and he asked Mr. Bryant if that is true with the density and . . . Mr. Bryant replied no. Mr. Horack stated a hospital, dormitory or Y.M.C.A. can have as many people per square foot of land area as they can cram into it and observe the side lines. That on Rest Homes, Nursing Homes and Homes for the Aged that has an additional restriction to equate this to single family. Furthermore, that is more stringent than is required for multi-family facilities, which require in R-6 6,000 sq. ft. for the first five people, but it then drops down considerably so you'll need a couple thousand, etc. The side line requirements practically legislate out many of the situations when it comes to a typical R-6 lot of 6,000 sq. ft. or 9,000 or 15,000, etc. And he will not allude to that anymore because he gave to Council a few graphic examples both as to the sq. footage required in certain situations with a certain number of resident occupants, and also a chart showing some typical type lots and what kind of building that you can build. That it gets down to the point of ridiculous, where it is impossible or economically unfeasible to build such a building. There are also the requirements of safeguards of height and the side line must increase accordingly; and the safeguard of the requirement of unobstructed area. In addition to all of these safeguards built into the ordinance one must comply with the other requirements of either the Public Health Department or Public Welfare Department or The Health Department, each one of which has their own requirements, including those of likeness. The other obvious thing is the present ordinance as it exists excludes Homes for the Aged. If this proposed amendment is passed, it does not mean that it is going to necessarily be able to come into a major portion of our residential areas. The reason is that any group of zoning laws do not override effective and valid deed restrictions, and the major portion of our subdivisions are highly restricted by deed restrictions which is another way of saying if there is any group of people who want to protect themselves against the inroads of a Home for Aged, a Nursing Home, Rest Home, Hospital, a school or a church, they can effectuate their own deed restrictions and keep them out. So all of these safeguards mesh together

to form ample safeguard repeal to the proposal to allow these facilities in single family areas where we suggest they have a right to be. Mr. Horack stated he would like to call upon Dr. John Cunningham.

Dr. Cunningham stated he is speaking for the Board, of which he is not a member but he sat in on their meetings, and he would like to add a few words to Mr. Horack's. That what he is saying is more from the humanitarian point of view. That they believe a Home for the Aged belongs in the same category as other institutions such as churches, hospitals, or schools. It is a matter of humane or a human institution designed to serve the needs and the interests of elderly people in the community. This type of home in our present civilization has become increasingly necessary and increasingly recognized in cities of our entire nation, and they are dignified and unselfish projects. Such a location as they had in mind would be landscaped for beauty and for dignity and it would have pride in the community. It would be an asset for years to come to our city and to our state. It is the honest opinion of the Board, and this opinion he thinks is supported by some of our experienced realtors, that such a home will enhance and in no sense diminish the value of adjacent property. Here is twenty acres of wooded land which can be made beautiful and which will be sufficiently removed from the residential area about it that it would hardly be more or less than a thing of beauty, more like a park. The present plan that is now before the Board considers the placing of the Home and parking facilities on two acres of the twenty acres of land provided at the center of this entire acreage, which would indicate something of the distance that the Home would be removed from the residential area. That once this Home is established and clear of financial indebtedness the supervision and control of the Home will then pass to the Presbyterian church in the State of North Carolina, and it will assume the official responsibility for it and the use of it and guarantee for years to come, regardless of who the local group might be, the proper care and use of the Home. That some of the Council may have noted the Home that is operated in High Point under the same control. It has been there now for a number of years and has come to be thoroughly established and is a highly regarded institution by a good many of the people of our own city, but chiefly from Greensboro, Winston-Salem, and that area. That it is their thought that the same privilege we are asking at this time would be open to other denominations wishing to perform the same service in our city.

Mr. James Cole, Attorney, stated he is here for the fifth time on this matter and he is sorry that it had to be that way. That Mr. Horack has related to you certain aspects of the background pertaining to this controversy. Certain of them he was not averted to which I deem important and particularly for the information of Mr. Tuttle and Mr. Short. I think some of the background is important. I would like to start out by saying first of all that I agree with everything Mr. Horack and Dr. Cunningham has said. He disagrees with only one thing and that is the passage of this particular ordinance. A lot of things can look good on the surface and yet have fatal defects in them, and he wants to allude to those today. That had those interested in supporting the Presbyterian Home for the Aged taken this step initially, he does not know of one person who could have come before Council and opposed it. He stated that he is aware of Mr. Green in Chapel Hill and of Mr. Bassett; yet, Dr. Yokely and other experts on the subject of zoning that there is absolutely nothing wrong with the proposed amendment to our general zoning ordinance. The reason that has been indicated some five or six in number in the petition signed by Mr. Allison, President of the Presbyterian Home of Charlotte, is validable and they are not subject to judicial attack except, unfortunately, it is his position that this ordinance as proposed is subject to

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judicial attack pending an examination. That Dr. Cunningham answered for him the one question he wanted to ask of someone here. What is the purpose of the ordinance which is before Council today? He stated that he cannot accept the responsibility for the background of this matter; that, he represents people who retained him and after examining their complaint, he filed a suit in their behalf in Superior Court of Mecklenburg County, which is now pending. It is no longer a legislative or political question or a combination of the two; it is a judicial question. And the answer in the lawsuit in which Mr. Jamison of the former party and which Mrs. Little has been enjoined from performing some act is a judicial question with which he trusts this Council will not attempt to interfere. He stated that they do not question the motive of the Presbyterians; their motives are of the highest, but he does question the motive of this amendment, and he intends to go into detail on that. That he cannot come down here as a citizen of this community and ask this Council to pass an ordinance to help him out and say "gentlemen color it so it looks like you'll be exercising your usual legislative prerogative. It is not going to help him out, but we can dress it to fit the whole general situation. Thus today we have an amendment to the General Zoning Ordinance which applies to every single residentially zoned district in the city of Charlotte and the perimeter zone. And, yet, Dr. Cunningham very kindly and graciously has now identified this amendment as being applicable to the situation on Sharon Road, a situation which is in the Courts. Perhaps in this day and time it is not too bad to have our consciences pricked occasionally as Mr. Horack said, but if anyone has pricked the consciences, he would suggest it is Judge Hcugh and Judge Riddle and Mr. Horack should complain to them and he will have the opportunity because this matter will probably be tried before Christmas. And if it is appealed to the Supreme Court of North Carolina, it will be heard in March. He stated that this matter started out with the poorest display of public relations in a zoning matter conceivable to him. It was not intended that way but it ended up that way. Unfortunately, not one person from the Presbyterian Home for the Aged approached the people whom he represents and the first notice they had was the posting of a sign of public notice. If they had but taken one iota of the effort they are extending now and applied it in that way, who could have opposed it?

Mr. Cole stated they did go to court on two basic premises; one is spot zoning, and the other is the record by the Council, and the actual technicalities involved in Ordinance No. 336-Z were filled with errors and he thinks his *prima facie* has been somewhat validated by the fact that two Superior Court Judges have agreed with their position. When Mrs. Little filed her petition, she said that her property was not suitable for single residence zoning, and it was impracticable to continue the single family zoning for her 19.73 acres; that the only way it could be used would be for multi-family and in this case it would be ideally situated for the Presbyterian Home for the Aged because it was convenient to Sharon Presbyterian Church, short walk from Sharon Shopping Center and in a beautifully wooded neighborhood. Now having cast a die and having picked a road to follow at an intersection, when they could have come in here and asked for the very limit they ask for now, he is going to insist they follow it. The question should be asked why does the Presbyterian Home of Charlotte, Inc., file a petition to permit a Home for the Aged in a single zone district. Of all people not connected with that property its the Presbyterians, because they came down here and asked you to change Mrs. Little's almost 20 acres single family to multi-family which was done, and the Court has enjoined that. That he does not know and he would like these questions answered, and he thinks they should be answered for this record. Let's assume that Council will pass this amendment to the general zoning ordinance, under the general police powers for the general welfare of all the citizens of Charlotte, where are the Presbyterians left?

They are left in Superior Court with a suit involving the MF application. Mrs. Little's property is not zoned single family, and in order to take advantage of this amendment if it is passed, some other things are going to have to happen. Is it the intention of the Presbyterians to ask Council to rescind Ordinance 336-Z, which is the very ordinance which changed Mrs. Little's property from R-12 to R-12MF? He noted the amendment to Ordinance No. 392 passed November 1st provides that "you may change the existing zoning classification of the area covered by the petition or any part or parts thereof to the classification requested or to a higher classification." Her property qualifies for R-15 as there are twenty acres and that is more than 15,000 sq. ft. Are they going to ask Council to come back in here, while one of your ordinances is under judicial construction and change her property to R-15? These are questions which he believes they are entitled to have answered today. When a matter goes into Court, the legislative exercise any jurisdiction pertaining to one of the ordinances. You can do anything you want with it while it stays on this side of the building, but once it crosses the street and goes to the next building over, it is beyond Council's action. If this is an ordinance for the general welfare of the people of Charlotte, wholly unconnected and disconnected from the problem on Sharon Road, but Dr. Cunningham has advised to the contrary, Council should pass it because it is a good amendment. But if this proposed amendment ties in with the Presbyterian Home on Sharon Road, and Mrs. Little's twenty acres, he would suggest to Council that they think cautiously and long before they pass an amendment to the general ordinance which may be constructed as attempting to circumvent the Superior Court of Mecklenburg County and the State of North Carolina.

Mr. William Shuford, Attorney, stated he is appearing with Mr. Lloyd Baucom, Attorney. That they are appearing for Randolph Park Civic Corporation, which is a group of citizens who live in single family zoned homes. That he must disagree with both Mr. Horack and Mr. Cole. That he and Mr. Baucom do not take quite the limited view that each of them have. That they feel they speak for all families, many situated with them in single family zoned homes, and they urge Council not to adopt the proposed change. That in doing so, they realize it has a background of well meaning influential support for its adoption. But good intentions, no matter by whom, are no substitute for logic and sound planning, and the end does not always justify the means. The end here is to create more property for use as Nursing Homes. He asked how much property is necessary? Would the proponents for the change have us believe that the answer is all land in the City of Charlotte? Is more land really needed for this purpose? And if so, is it necessary to actually destroy the classification of single family zoning to achieve this. They attribute no ulterior motives to the proposed change. They are indeed among our most respective civic minded people. They do say, however, in their zeal to achieve what is the most worthwhile purpose, they have caused to be pressed upon Council a hastily and ill-conceived and obviously, inadequately considered ordinance. In addition, apparently no attempt has been made to conceal the obvious, in their view a piece of special interest legislature. That the newspapers reported long ago that this change in the entire Zoning Code is being sought so as to allow the construction of a particular Nursing Home. No matter how high this purpose, this is special interest legislation. That it seems to them, the foundation of any city, especially Charlotte, is the community of single family homes. This change, if adopted, would severely shake that foundation. How could any family buy or build with any assurance a home in a single family area with any assurance that it will continue to be a single family area? What then happens to the orderly development of the land in

our city. That a very brief look at the proposed ordinance gives one cause to wonder what if any consideration has been given special problems this ordinance creates? What about size, parking requirements and such non-residential uses as laundry, kitchens facilities and visitors. What study has been given the question of the conversion of existing residences? These questions are important because they are not here dealing with large tracts of land. They are dealing with lots as small as 6,000 sq. ft. Where in this is the protection not only for the owners of the residential property, but also for our elderly citizens who will live in these homes? Every Nursing Home allowed by this ordinance will not be constructed as a fine facility by churches or truly benevolent or humanitarian group. This ordinance may open the way of unscrupulous operators to create a profit by all sorts of small Nursing Home slums in all parts of our city. Is this really for the good of the general welfare of all our citizens? They say that all of our citizens have the right to equal protection of their property under a sound, sensible zoning law. Every change sought should stand on its own merits. The proposed ordinance offers a broad-side approach to a problem that does not warrant such drastic measures. If there is a fly on the wall, let's use a fly swatter and not a cannon to blow down the whole wall. That Mr. Horack says uncluttered open space, light and air are the desired atmospheres for the type of institution he speaks of. Where does this ordinance provide for these; they do not exist in a 6,000 sq. ft. lot. They exist only in large tracts of land in multi-family zoned areas, which already provides for Nursing Homes. Again, they urge Council to turn down this proposed change.

Mr. Hugh Baucom stated he also must disagree with Mr. Cole and Mr. Horack. That he represents the same group that Mr. Shuford alluded to, and they are against the proposed ordinance change because of its broad sweeping provisions and its many inequities. There are several traditional reasons against such changes; first, it changes the residential character of a community, tends to introduce commercialism into a single family district, and it lowers property value notwithstanding the real estate experts opinion. Where you have a congregation of people you have additional traffic activity creating hazards for children; traffic has to have a place to park and this is another argument against the change. It will tend to make the play area of the community a quiet zone, a quiet zone for the homes that people have bought for the purpose fo raising their families and in which they make their biggest single investment. But even if you say these can be discounted by studies and by reference to the several experts, Mr. Bassett, Mr. Green and the others, look at the actual ordinance; what does it say? Very little. What does it not say? Very much. Where do you find in the ordinance a definition of what a Rest Home is, or what a Home for the Aged is, or what a Nursing Home is? That he thinks a Nursing Home includes a home for alcoholics, a home for the chronic diseased, or the mentally sick. Where is the definition in the ordinance or even the various other statutes of our General Zoning Code which it incorporates by reference. What provision is made in the ordinance about screening? Are all property owners within some few feet referred to by Mr. Short earlier to be exposed directly to the activities of this commercial enterprise in their residential neighborhood? What provision is made in the ordinance for the safety of the occupants of the home? We have one zone that would allow these Nursing Homes to be built within eight feet of the side line. For a 40 ft. high Nursing Home, could firefighting equipment adequately get into the property and fight the fire on all sides where the danger might exist? Has this been thought through and adequate control been included beyond this point? There have been several reference already made to lack of parking requirement. What about parking? What about recreation area for these people? They by and large can't get into their automobiles and leave and get their recreation else-

where. They require more recreation than an ordinary family of four or five. Is that going to be assured to them by this ordinance, as it generally exists? There are no controls in this ordinance and he asks Council to carefully consider what it spells to date and seriously consider sending for further study and revision if they are inclined to go along with its theory. That insofar as the theory itself is concerned, he disagrees with Mr. Horack that it is the rule that institutions are included in zones in our cities across the nation. That his research has indicated there is some trend in this direction, but the trend is far from being a universal one. It is, as Mr. Horack has said, the most single important zoning that Council has recently had before them, and he says in considering this Council should take into consideration that in the City of Richmond when a like issue came before that City Council, a great and extended study went into it with the result that they did allow Nursing Homes in single family residences except Nursing Homes with a maximum of six persons. And here, we are going to open up every one acre lot in the City of Charlotte in R-6 zone to some 12 to 15 persons. We are going to take the lot next to your house and open it up for some mercenary to purchase it and make some conversion to comply with the Health code and commence operating it as a Nursing Home. That he agrees with the intent and high purpose of the Presbyterian group, certainly it is beyond reproach. But the open space - light and air, we are going to make it available for these Nursing Homes, and we are going to take it away from the adjoining property owners who have paid fair value for their property. That Mr. Horack also alluded to the fact that these restrictions, would protect many of our good residential areas. This he could not disagree with more. Some of our finest, yet older residential areas, have very mild type deed restrictions, and we have no judicial interpretation of their language. That when and if such a judicial opinion was given, it would allow Nursing Homes under the language of deed restrictions as they exist, and certainly he doesn't expect some 30 or 40 people in a community to go out hire attorneys, research all the owners of the property in the community, research all the mortgage holders, all the deeds of trust and then draw up a paper and take it around to some 100 to 200 people that would be involved and put a new set of restrictions on a community. That would be a burden that this Council should not put upon people.

Mr. Horack stated he asks and implores Council not to do a single thing towards the matter of approving this proposal in order to help the Presbyterian Home Plant one single bit. That this proposed ordinance will be passed and they ask that it be on the basis that it is sound, that it is good, that it is reasonable to the health, safety and welfare of the entire community. Therefore, he asks that they not be influenced one whit by any problem, plan hopes, aspirations or anything else that the Presbyterians have on any twenty acre site or anywhere else. This must rise or fall on its basic merits as an ordinance which the entire community needs.

Councilman Tuttle stated he believes he is correct in assuming that the Planning Commission is in favor of this ordinance, and he would like to ask the City Attorney if there is any particular reason why this situation must remain open for a week?

Mr. Kiser, Acting City Attorney, replied there is no particular reason why it must remain open. That he thinks in order to keep some order in the format or presentation of these zoning petitions, that it might be appropriate to refer it back to the Planning Commission for their recommendation after this public hearing, so that the Council could then vote on it at the next meeting.

Councilman Tuttle asked if they could hear from the Chairman of the Planning Commission as to whether or not he thinks it necessary for the petition to go back to them? Mr. Sibley, Chariman, replied that he does not think it is necessary as they have passed on it a couple of times, and they will take it up this afternoon in their Commission meeting.

Mayor Brookshire stated he thinks it only fair that the Planning Commission meet again following the public hearing and consider what was said during the hearing, both pro and con.

Councilman Tuttle stated he withdrew his remarks.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-97 BY M. R. GRASS, JR. AND OTHERS FOR CHANGE IN ZONING FROM R-9 TO R-9MF OF PROPERTY ON BOTH SIDES OF AUTEN ROAD, FROM OAKDALE ROAD EASTWARD APPROXIMATELY 1,330 FEET.

The public hearing was held on Petition No. 65-97 by M. R. Grass, Jr. and others for change in zoning from R-9 to R-9MF of property on both sides of Auten Road, from Oakdale Road eastward approximately 1,330 feet.

Mr. Bryant, City Planner, stated this is an area located on both sides of Auten Road. That Auten Road is located on the western side of town just outside the City of Charlotte. That highway 16 West runs in this direction and Oakdale Road leads off to the north and Auten Road leads to the east off Oakdale just beyond the City of Charlotte Water Department Reservoir area. The land uses in the area consist primarily of residential and vacant property along Auten Road; there is a scattering of single family residential uses all along the road; within the area of the proposed change there is one duplex structure; one non-conforming welding and machine shop type of building; all the area encircled in gray is City of Charlotte property, water department property. On one side of Oakdale is a scattering of single family and vacant property. The present zoning in the area is R-9 as is most of the surrounding property in the area; the Water Department property is zoned I-2 so that you have a combination of industrial and single family property.

Mr. Grass, the petitioner, stated he made a survey of the community and all the people he talked to concerning this change were in favor of it. That he would like to ask Council to rule in his favor.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-98 BY OSCAR B. BOWAN FOR CHANGE IN ZONING FROM R-6MF TO I-1 OF A LOT 100 FT. X 353 FT. ON THE EAST SIDE OF OLD STEELE CREEK ROAD, BEGINNING APPROXIMATELY 625 FT. NORTH OF WILMOUNT ROAD.

The scheduled public hearing was held on Petition No. 65-98 by Oscar B. Bowman for change in zoning from R-6MF to I-1 of a lot 100 ft. x 353 ft. on the east side of Old Steele Creek Road, beginning approximately 625 ft. north of Wilmount Road.

Mr. Bryant, City Planner, stated that this is an area on Old Steele Creek Road between Wilmount Road and West Boulevard. The subject property is

a small tract of land 343 ft. by approximately 100 feet of frontage. The property is used in conjunction with Bowman-Dunn Manufacturing Company, and industrial operation on the adjoining property. It is adjoined on the south side by a church, and there are scattered residential uses along Wilmount Road. There is a trailer part directly across from the Church on Old Steele Creek Road, and one or two scattered single families across on Steele Creek Road. The present zoning is R-6MF as is the adjoining property to the south; directly to the north and across Steele Creek Road it is all zoned I-1. That the property is contiguous to Wilmount Baptist Church.

Mr. Wallace Osborne, attorney, stated he represents both Mr. and Mrs. Bowman and Bowman-Dunn Manufacturing Company. The Bowman-Dunn Manufacturing Company has a ten-year lease on it with option to purchase. They have used the property for a number of years, as Mr. Bryant has described. On May 16, 1956, by special petition this property as well as a large tract of land was changed from Rural to Industrial; and later in January, 1962, when the new Ordinance was adopted, there was a considerable change and this property at that time was changed to R-6MF. Prior to the time the Bowman's acquired this lot they had used it with the permission of the owner at that time. That Bowman-Dunn Manufacturing Company has been in operation at this site on the property immediately to the north of the lot in question for some twenty years. They are in the business of making textile pickers for textile plants - which is some wooden device that picks up the fabric and so forth. In February, 1960, the Bowman's purchased this lot for the very purpose of having it for expanding their plant at some future date. But when the new ordinance was passed, they were not aware of the fact that it affected their property in a reverse manner back to a residential type of zoning similar to what it had been before it was changed to Industrial in 1956. That they recently decided they might want to enclose this lot with a warehouse and then learned it had been changed in the general overall ordinance in 1962. That there has been a change since around this particular property, as well as the entire complex of their plant for some five or six years, and if you did not know of these facts you would assume this was all part of the manufacturing complex in which they are engaged. With reference to the church property, that according to a survey which he has, there is some 375 feet from the lower side of the lot in question to the church itself. That he understands from the Bowmans, and he knows of no opposition to the change. That he believes there is some small educational building either under construction or to be constructed, but even after that is built it will still be approximately perhaps 300 feet. Mr. Osborne stated he believes these are citizens who were not aware of what had happened until it was too late when the new zoning ordinance was passed, and he asks that Council change this back to what it should be, in as much as it is contiguous to and a part of this manufacturing complex.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

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HEARING ON PETITION NO. 65-99 BY FRANK G. TEMPLETON FOR CHANGE IN ZONING FROM R-6MF TO I-1 OF A TRACT OF LAND CONTAINING 2.32 ACRES OF LAND, BEGINNING 300 FT. SOUTH OF I-85 AND 300 FT. WEST OF STATESVILLE AVENUE.

The public hearing was held on Petition No. 65-99 by Frank G. Templeton for change in zoning from R-6MF to I-1 of a tract of land containing 2.32 acres of land, beginning 300 ft. south of I-85 and 300 ft. west of Statesville Avenue.

Mr. Bryant, City Planner, advised that this was the site that was before Council a few months ago and withdrawn before final decision. The tract is south of I-85, and west of Statesville Road. The land is vacant and there is a newly constructed warehouse and office building adjacent to the property on I-85 side. The corner of Statesville Road and I-85 is the site of a Howard Johnson Restaurant. Immediately to the south of the subject property, there is a combination of business, residential and an automobile repair garage, and further down is a Junior High School. He pointed out the Lake Jo area and stated that otherwise the area is vacant. The present zoning of the area - to the south of the property is R-6MF, to the north towards I-85 is I-1.

Mr. Roy McKnight, Attorney, stated he represents the Leesona Corporation who is leasing a portion of this property. He pointed out the property under lease from a map, and pointed out the strip of land in red which he stated is basically the strip under the petition which is being asked rezoned I-1. That the front property is already I-1. He stated there is sufficient buffer in the back until you get to the school property, and there is a minimum buffer zone of Mr. Templeton's property of 225 feet, which would remain multi-family. That the reason the Leesona Corporation is interested not for the present but for future expansion. That it is a textile manufacturing company and this property will be used as a training center. The future expansion will maybe build some warehouses in the back but, at this point and in the future, it is not planned at all for any actual manufacturing but purely as a training center for this section of the country. He stated the Leesona Corporation has an interest to the extent of how they can expand their future operations here in Charlotte.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-100 BY NEIL R. COX FOR CHANGE IN ZONING FROM R-12MF TO B-1 OF A TRACT OF LAND CONTAINING 2.02 ACRES ON THE SOUTH SIDE OF ALBEMARLE ROAD, BEGINNING APPROXIMATELY 700 FT. EAST OF LAWYERS ROAD.

The public hearing was held on Petition No. 65-100 by Neil R. Cox for change in zoning from R-12MF to B-1 of a tract of land containing 2.02 acres on the south side of Albemarle Road, beginning approximately 700 ft. east of Lawyers Road.

Mr. Bryant, City Planner, stated this is an an area that is east of Lawyers Road, Albemarle Road and Delta Road intersection. The subject property has a house on it; there are single family homes to the west of it; there is a vacant area and more single family homes to the east, and directly across the street there are single family homes, and a little further out is the Wayside Garden Shop. There is a service station at the intersection of Lawyers Road and Albemarle Road and a new Super Market

being constructed at Delta Road and Albemarle Road, all in the same immediate vicinity. With that exception, the area is predominantly vacant. Zoning at present on the subject property is multi-family as is the property immediately to the east of it, otherwise the property is surrounded on the three sides by business property, and across Albemarle Road and immediately adjacent, and to the rear of it.

Mr. Neil Cox, Petitioner, stated his reason for the request is that it is already zoned business beside him and he has lived here for fifteen years, and he just wants it zoned like the rest of the property beside him, in front and behind him.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-103 BY JOHN CROSLAND REALTY COMPANY FOR CHANGE IN ZONING FROM O-15 TO B-1 OF A LOT APPROXIMATELY 90 FT. X 235 FT. ON THE SOUTH SIDE OF FAIRVIEW ROAD, BEGINNING 631 FT. WEST OF THE CENTER LINE OF SHARON ROAD.

The scheduled hearing was held on Petition No. 65-103 by John Crosland Realty Company for change in zoning from O-15 to B-1 of a lot approximately 90 ft. by 235 ft. on the south side of Fairview Road, beginning 631 ft. west of the center line of Sharon Road.

Mr. Bryant, City Planner, advised that this is a small lot. That there are stations at all corner at Fairview and Sharon Road. He pointed out the Sharon Shopping Center immediately adjacent to the site; a small vacant area and then a service station and photo studio beside the station. On the west side of the property is the Stevens Company Office Building, and property across the road is vacant. The property to the rear is presently zoned and to the east of the subject property is B-1; property across the road is B-1SCD for the Shopping Center, and the property to the west is zoned O-15 as is the subject property.

Mr. Frank McCleneghan, Attorney for the petitioners, stated the property is surrounded on two sides by B-1 and on one side by O-15, and then the Shopping Center. That it seems to him it should have been zoned B-1 to begin with particularly with what is on the side of it, and what is back of it. That the building on the property is occupied by First Union National Bank; the building was built for the bank and they have a lease that runs for a period of twenty years with two years renewals. The main object is that here has been placed a sign in front of the bank which according to O-15 zoning is a little too close to the street; but it is obvious that it is going to be occupied by the Bank as long as most of us live.

No opposition was expressed to the proposed rezoning of the property.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-104 BY HOWARD O. GRAHAM, JR. FOR CHANGE IN ZONING FROM R-9 TO R-9MF OF TWO LOTS 80 FT. X 180 FT. EACH ON THE EAST SIDE OF EATON ROAD, BEGINNING 265 FT. NORTH OF MONROE ROAD.

The public hearing was held on Petition No. 65-104 by Howard O. Graham, Jr. for change in zoning from R-9 to R-9MF of two lots 80 ft. x 180 ft. each on the east side of Eaton Road, beginning 265 ft. north of Monroe Road. A petition protesting this requested change in zoning had been filed by owners of more than 20% of the area within 100 ft. adjacent to one of the side lines of the property, and is sufficient to invoke the rule requiring the affirmative vote of 3/4 of the City Council to approve the requested change in zoning.

Mr. Bryant, City Planner, advised that the property consists of two lots on the east side of Eaton Road, and one lot is occupied by multi-family usage and the other is vacant. The property is adjoined on the north side by a lot that is in private ownership but used for parking purposes by the Oakhurst Baptist Church, and is located across Eaton Road from the subject property. The petitioner also owns a lot fronting on Monroe Road, which has an apartment structure on it, otherwise the area is a combination of single family dwellings to the rear, down Eaton Road and a few scattered houses. At present the zoning along Monroe Road is multi-family, to the rear going down Eaton Road and Lanier Avenue it is zoned for single family purposes, and the property to the west of those lots is zoned multi-family.

Mrs. Graham, Petitioner, stated they have apartments now on the front at the corner of Eaton Road and Monroe Road, which has eight units; five units front Monroe Road, and three front Eaton Road. That they cannot repair the ones in the back without the change in zoning. They would like to bring them up to standard; therefore, they want it zoned so they can continue a nice building which would be appropriate to the section, as they have their home there, and not only that it would be a nice apartment building for each person living there. She stated they do not allow drinking, they do not allow late hours, and they have counseling service for their tenants who need it. She stated that the Eaton Road lot adjoining the front Monroe Road lot is directly across from the church parking lot, and adjoining it on the further side is another church parking lot. At the rear of the lot is an old building with three units, which she understands is zoned single family and has been there for a long time and is rental. She stated Council consideration would be greatly appreciated.

Mr. David Myers, Attorney, stated he represents the twenty-two property owners who signed the protest petition, and they protest any zoning change on Eaton Road or Lanier Avenue. That all of the dwellings on these streets are of the single family type, and they feel it would be highly unfair to allow certain individuals the right to construct multi-family type buildings on one or two specific lots. That three of the dwellings have been built within the last seven years, two major renovations have been done in the last two years. That the people keep their places up, they maintain their yards and it is a nice single family residential area. There are some apartments along the lots that were built when this whole area was zoned R-9, and there was a petition three years ago to rezone all of this property from Oak Street, R-9MF. The property owners protested and the City Council saw fit to rezone the property fronting on Monroe Road anyway. These apartments were there before the front property was built, and how the Building and Zoning Laws affect it, he doesn't know. No one in the community wanted to

complain because they felt one has to be neighborly with everyone, but if this is going to be a creeping thing and move on down the street, they would like very much to stop it. Immediately adjacent to the two lots in question the vacant lot is not a regular parking lot; it is owned by Mrs R. C. Birmingham and she has been kind enough to allow the church to park on the lot for the past several years. That in the last few months the Church has cleaned off a lot which they own, and torn down a building for parking facilities there, and they no longer need this area owned by Mrs Birmingham. That he would like to say on behalf of these people, if this situation is allowed to continue to creep on down, they might as well give up. That he thinks it is unfair to the 22 people who signed the protest; that only these 22 people were contacted due to limited time. That he does not think there is anyone in favor of rezoning any more of this property.

Mrs Graham stated she failed to bring out that the apartments were there before the area was zoned and brought into the city. That the new houses down the street were built three years ago and the apartments have been there longer. She stated that three years ago the whole area was zoned and they asked for rezoning of the apartments and only the front was rezoned and they went ahead with their construction to repair the building and modernize it and when they went for the permit they turned it down because the lot was being used with the apartment and they could not allow it. So this put them back where they started.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-105 BY MRS. CYNTHIA PHARR WHITING FOR CHANGE IN ZONING FROM R-15 TO R-6MFH OF A TRACT OF LAND FRONTING 300 FT. ON THE SOUTHWEST SIDE OF PROVIDENCE ROAD, BEGINNING 100 FT. NORTHWEST OF SHOREHAM DRIVE.

The public hearing was held on Petition No. 65-105 by Mrs. Cynthia Pharr Whiting for change in zoning from R-15 to R-6MFH of a tract of land fronting 300 ft. on the southwest side of Providence Road, beginning 100 ft. northwest of Shoreham Drive. A petition protesting this requested change in zoning had been filed by owners of property constituting more than 20% of the area within 100 ft. of one of the side lines and more than 20% of the area within 100 ft. directly across from the property, and is sufficient to invoke the rule requiring the affirmative vote of 3/4 of the City Council to approve the requested change in zoning.

Mr. Bryant, City Planner, advised that the subject property is on the right hand side of Providence Road going out of town, and Shoreham Drive intersects Providence. The property itself fronts about 300 feet on Providence Road, and is some 3½ acres in size and is odd shaped, and does not come quite to the Shoreham intersection. The property has an old standard house on it. There are in the immediate area two structures of multi-family character; immediately adjacent to it is one on the in-town side, and a little further out Providence on the opposite side there is another, both being non-conforming structures. With those two exceptions the area is entirely used for single family residential purposes, and is zoned R-15.

Mr. Robert Kurtz stated he is representing the Petitioner and Rhone Realty Corporation who has obtained an option on the property. He presented a drawing of the apartment they plan to construct on the property. Councilman Jordan asked the width of the building and Mr. Kurtz replied it is 200 feet. Councilman Tuttle asked how far from the road they plan to sit and Mr. Kurtz presented a drawing showing the location of the build-

ing on the property, and stated there is a setback from Providence Road of 80 feet; he pointed out the buffer zone at the back which will be landscaped as a garden area 170 odd feet from the building. The parking for the tenants will be underneath the building, and there will be a small parking area for guests of the tenants. He pointed out the location of the swimming pool which will be enclosed and unobserved from the road, and stated the rest of the property will be left as a buffer zone with trees, shrubs and landscaped. The apartment house will be six stories high with approximately six feet living units, of modern, fire-proof steel construction and based with sandblasting; a luxury type apartment building with the rentals expected to begin at approximately \$225.00 per month; designed primarily to attract executives who are subject to transfer and do not want to invest in a permanent and inflexible investment of a private home. That they believe there is a need for this sort of apartment in Charlotte. As Charlotte grows and more mobile executives transferred in and out of Charlotte, it will be more attractive. That this particular land is ideally suited for this sort of development. Providence Road is a major traffic artery and this land is located near shopping centers, schools and churches. It is adjacent to a small six unit apartment on the land adjoining it and across the street from another six unit apartment and in close proximity to Cotswold Apartments, Sharon Arms Apartments, and Tropicana Apartments. The tenants from the building would be served by the Cotswold Shopping Center, Providence Road Shopping Center and the new planned Belk-Ivey Shopping Center. The development of the belt roads and the expansion to four lanes of Providence Road would give easy access to the downtown business area and other business area in the city, and with the existing and planned traffic arteries in the area, would very easily take care of any increase in traffic. He stated this project would represent an investment of approximately \$1,500,000. There is considerable disagreement about this from those who have filed a protest petition. That the Queens Towers Apartments on Queens Road, which was developed by the same people, has caused no drop in property values in that area; on the other hand they understand that property values have gone up. The type of tenants would be a credit to any neighborhood in Charlotte. They think in some cases this sort of thing might help the consideration of an industry which is planning an expansion or a move, for the availability of desirability located, convenient and desirable executive housing is one of the things that is considered by industries when they consider expansion or a move.

Mr. Kurtz stated if you are going to build a luxury type apartment you have to have a location for it which meets three basic requirements. First, you have to have a large enough area to take care of a building of this type. The second requirement is you have to have it located in a desirable residential neighborhood and it has to be accessible to the central business districts and other business districts. There is very little land in Charlotte which would meet those three requirements that is available for this type of construction. It is difficult to put together a group of lots or tract of land that would be suitable for a development of this type. If they are not able to utilize some of the areas that exist, we are not going to have any of this type of construction. The result, he believes, will be to scatter smaller, less desirable and poorer quality developments throughout the city. He thinks Council is familiar with that area and he doesn't think they would consider investing any considerable sums of money in a single family dwelling for themselves on Providence Road because of the traffic conditions that exist. That the most logical and reasonable use of land in that area, will, if not now, be for multi-family apartments dwellings of this type.

Mr. Robert Pervical, Realtor, stated he has had the opportunity to talk with some of the people who are here to protest this request for a change

in zoning and the big question in their minds is how this will affect their property. The best answer he can give is to call attention to Queens Towers, which is in one of our nicest residential areas, and has been built for about 5 years - do you think it has hurt or helped that neighborhood? That he knows of three transactions in the last 18 months where people have invested from \$40,000 to \$60,000 in homes within a block of Queens Towers, and that section is now one of the strongest salesability sections in town. He thinks this would be true if the right kind of building is erected on Providence Road. Again we have an example, Clubview Apartments was erected a few years ago at Roswell Avenue and Queens Road East, then Country Club Arms was built a block further on Roswell Avenue and now another apartment is under construction which will rent from \$250.00 up a month. He honestly does not feel that these apartments have hurt these fine areas of Queen Road and Queens Road East. He thinks they have helped it. Look again further out Providence Road at Lansdowne, and at Old Providence Road, they are among the most popular growing residential sections in town. Mr. Percival stated this area is going to continue growing and put more traffic on Providence Road (NC 16) and then the desirability to use the piece of land requested rezoned for single family usage will diminish rapidly, and it is almost impossible to subdivide it where it can be used for several homes. So if this petition is turned down, the property will probably lie fallow for several years with an old dilapidated home on it to attract undesirables, leaving beer cans etc. He stated that the developer for the property in question has only been involved in two apartments, Queens Towers and Sutton House and these will verify the fact that what he proposes to build on this property is of the highest quality. He stated that the Planning Commission has very suitably put property under R-6MF zoning in other sections, and you may ask why we not build there, it is for the reason that it is almost impossible for a realtor to assemble 5 or 6 lots together on which to build a nice apartment, or get 5 or 6 people to sell at the same time and practically all of the property that was available for use for apartments is 100 x 200 ft. lots, which means you absolutely have to assemble 5 or 6 of them. That he wants to assure the Council that this lot is 100% wooded with large, old trees, and it is the intention of the developer to so position the building that the outerscreen of these trees will remain, not only for the privacy of the people on the adjoining lots but for the privacy of the people who would live in the building.

Mr. James E. Walker, Attorney, stated he is representing 178 people who signed the petition, and they include not only the people around the property in question but people going over three and four blocks. That the structure proposed to be built will be 6 or 7 stories, he is told, and you can imagine how far away you can see from a building of this height, it would deprive the surrounding residents of any privacy. That two or three properties have been pointed out in the area, which are non-conforming uses put there before the days of zoning and he knows of no changes in the area since zoning went into effect. That the petitioners assign two reasons for requesting this change, that Providence Road is heavily traveled and no longer desirable for single family dwellings - that he knows of at least five or six houses that have been built on Providence within the last 5 years, and there is one just northwest of Wendover Road that was built within the last year, and there is another near Trinity that is being completed. That his other reason is there is an apartment building adjoining on the northwest, while in fact, it is hard to determine that it is an apartment because it is on a 100 ft. lot and runs back about 300 feet deep and it is a small structure on a wooded lot, well screened. And, this existed before zoning went into effect and we do not think they should be considered. He stated his clients, the opposition, have lived out there for a number of years and made big investments in their homes and are due

serious consideration of this problem. He stated the property in question is the old Pharr family home site and a part of Pharr Acres, which includes Wendover Drive, Shoreham Drive, Overhill Road, Forrest Drive, etc, a highly desirable residential area and the heirs to this particular property are requesting this rezoning. That the residents on these streets bought with the understanding that it would be kept highly restricted. That he not only represents the residents but he lives on Shoreham Drive in Pharr Acres, and in his deed it is restricted to single family dwellings. That maybe the people on Queens Road are happy to have Queens Towers but he expects if another apartment was proposed to be built along there you would not find a crowd of eager residents coming in favoring it. That one or two people who signed the petition of opposition are in the real estate business, and he presumes if they had thought it would help the area they would not have signed the petition. He called attention that this request is for rezoning from the highest residential zoning classification - R-15 to the lowest - R-6MFH, and he had thought that the R-6MFH was high rise apartments desired for the downtown area, not way out in the most desirable residential areas. Of course, property is cheaper in this residential area compared to property values downtown, and this would be a fine investment for the developer but a detriment to the existing property owner who has developed his property in the area for many years. That he knows for a fact that three persons living on Queens Road East put their property on the market for sale when the apartment was built at Roswell Avenue and Queens Road East, and it stayed and stayed on the market and eventually they sold at a loss. That his clients feel the only way they can keep their land values staple is for the existing zoning classification to continue to apply to all of the property in the area, and he asks that Council deny the petition.

Mrs J. B. Greenwood, Jr., 2311 Providence Road, stated she lives across the street four houses down from the property requested rezoned and they are opposed to a high-rise apartment in the area for it will be a detriment to the residential property and also devalue it. She urged that Council consider their plea and keep their interest in mind.

Mr. Lyle Beaman, resident of Shoreham Drive, stated they have grandchildren and there are many children on Shoreham Drive, and it is a neighborhood of single family residences and he thought his investment would be protected - but if the erection of this high-rise apartment is allowed, it will mean the devaluation of their property and the end of their quiet, peaceful neighborhood. That their plans call for a road from the rear or side of the apartment onto Shoreham Drive and since it is nearly a dead-end street the children ride their bicycles up and down and this will be a traffic hazard to their children and grandchildren. That he would think the residents who have signed the petition have better than a million and a half dollar investment in the area.

Council decision was deferred for one week.

PETITION NO. 65-106 BY ELIZABETH LEE MCPHAIL AND WILLIAM F. LEE FOR CHANGE IN ZONING OF 79,284 ACRES OF LAND ON BOTH SIDES OF I-85 WITHDRAWN BY ATTORNEY FOR THE PETITIONERS.

Petition No. 65-106 by Elizabeth Lee McPhail and William F. Lee for change in zoning from R-9, R-9MF and B-2 to I-1 of 79,284 acres of land on both sides of I-85, beginning at Tom Hunter Road and extending eastward approximately 1,916 feet, was presented for the scheduled public hearing. A protest petition had been filed by owners of more than 20% of the area within 100 ft. adjacent to one of the side lines of the property requested rezoned,

and was sufficient to require the affirmative approval of 3/4 of the members of the City Council.

Mr. Ben Horack, Attorney, stated he is appearing before Council prior to the hearing on this petition, to request that it be deferred; first, for personal reasons, he was approached as late as 5 o'clock last Friday by the petitioners to represent them at this hearing on this petition, and he has not had time to study it at all. Secondly, having discussed it with the parties in interest he understands there are some real opportunities that need exploration to see if something cannot be worked out beneficial to all concerned. However, if Council wishes not to defer the hearing to the December or the January date for hearing zoning petitions, then he will withdraw the petition rather than to present it to them in a piece-meal fashion.

Mayor Brookshire asked the City Attorney to advise Council in regard to Mr. Horack's request. Mr. Kiser stated Council has the authority to defer any public hearing to a certain date without requirement of additional advertising if they so desire.

Councilman Short said he would like to hear what the protestants think on the matter of deferring the hearing. Mr. Sol Levine, Attorney, stated he understands Mr. Horack's problem and he would like to confer with Mr. Horack for a second before stating their position.

Following their conference, Mr. Horack advised that Mr. Levine is agreeable to his withdrawing the Petition for the zoning change, and he now so does.

Mr. Levine asked Council if the protest petition filed by his clients will stand for any future petition for the rezoning of this property, or will they have to do the work of getting another petition signed over again? Mr. Kiser, Acting City Attorney, stated the petition to which the protest was made has been withdrawn, and as he understands it, they would have to make an additional protest to the new petition if and when it is filed.

The City Clerk advised that an additional protest petition was received today from Wachovia Bank and Trust Company, as Trustee under the Will of B.H. Hefner, as property owners in the area adjacent to the property of Elizabeth Lee McPhail and William F. Lee, the Petitioners.

HEARING ON PETITION NO. 65-107 BY WILLIAM G. ALLEN FOR CHANGE IN ZONING FROM R-6MF TO O-6 OF A LOT 43 FT. X 182 FT ON THE SOUTHWEST SIDE OF EAST EIGHTH STREET BEGINNING 150 FT. NORTHWEST OF HAWTHORNE LANE.

The scheduled hearing was held on Petition No. 65-107 by William G. Allen, for change in zoning from R-6MF to O-6 of a lot 43 ft. x 182 ft. on the SW side of East 8th Street beginning 150 ft. NW of Hawthorne Lane.

Mr. Bryant, City Planner, pointed out 7th Street, Hawthorne Lane running from Independence Boulevard into 7th Street and continuing on to Queens Road, and he advised that the property is located on E. 8th Street, one lot removed from Hawthorne. It is a very small lot only 43 ft. wide and 182 feet in depth. The property has on it a duplex, and there is another duplex across the alley; and there is a multi-family apartment on the corner of Hawthorne and 8th Street, and a duplex beside it and single family and business along 7th and Hawthorne. Directly across 8th Street from the property is a church; and single family residences in the remainder of the immediate area. Property fronting on Hawthorne adjacent to this

property is zoned O-6; the property itself, as well as property on one side and across 8th Street is zoned R-6MF and the property to the rear is zoned B-2.

Mr. Bill Scarborough, Attorney for Mr. William Allen, the petitioner, stated that situated on the property is a two story duplex with tenants up and down. The property was bought several years ago and was zoned Office-Institution at that time. The ten foot alley on the westerly boundary runs clear through to 7th Street. He pointed out the location of several businesses in the area, and stated the property all the way from 7th to Louise is zoned Business. He advised that the property is contiguous to O-6 zoning, which they seek for this lot. They are not asking for spot zoning but rather asking that Council undo what the Zoning people did when they took them out of the O-6 zone and put them back in the R-6MF zone. That Mr. Allen is a certified public account and he wants to put his office on the lot. That they have consulted with the City Engineer with reference to the availability of parking space that is necessary for them to have and they are assured by the City Engineering Department that their space is sufficient to meet the requirements. They intend also to improve this property by the addition of a brick front. He pointed out Hawthorne Lane Methodist Church which runs all the way to Oakland and is in a multi-family zoned area, and advised that there are rooming houses on 8th Street and down Oakland and 7th Street. This is what they think is a practical use for the property, and it was zoned O-6 once and they are merely asking that they be put back status quo.

No opposition was expressed to the proposed rezoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 65-108 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR CHANGE IN ZONING FROM R-6 TO R-6MF OF PROPERTY AT THE SW CORNER OF BEATTIES FORD ROAD AND GRIERS GROVE ROAD, FRONTING 431 FT. ON GRIERS GROVE ROAD AND ABOUT 510 FT. ON BEATTIES FORD ROAD.

The public hearing was held on Petition No. 65-108 by Charlotte-Mecklenburg Planning Commission for change in zoning from R-6 to R-6MF of property at the SW corner of Beatties Ford Road and Griers Grove Road, fronting 431 ft. on Griers Grove Road and about 510 Ft. on Beatties Ford Road.

Mr. Bryant, City Planner, stated just a couple of months ago there was a petition before Council by Nance-Trotter Construction Company to change the zoning on Beatties Ford Road from single family to multi-family, with a small portion to be changed to business zoning at the corner of Griers Grove Road and Beatties Ford Road. Following the recommendation of the Planning Commission, this business portion of the petition was withdrawn with the result that later on Council adopted the change in zoning of the adjoining area to multi-family zoning. That the Planning Commission's original thinking on the matter in recommending denial of the business zoning, that the logical thing to do would be to follow that up with multi-family zoning of this property as well.

Mr. Bryant pointed out Beatties Ford Road with Griers Grove Road leading to the west, and advised that the property is primarily vacant with maybe one house located on it. Across the street there are four single family homes and a site directly across from it is reserved as a church site; there is a small beauty shop and a combination TV service and residence and a mixture of single family residences and retail business use up Beatties Ford Road; with that exception the area is vacant except for a scattering of

rural type housing. At present the adjoining property was recently changed to R-6MF and the property in question is zoned R-6, as is the property across on Beatties Ford Road, and across Griers Grove Road, from this property is a mixture of Office and Business zoning.

Mr. William Trotter of Nance-Trotter Realty stated this action was initiated on behalf of the Planning Commission in order to straighten out what would amount to an inconsistency if it were left as it is. That their original petition a couple of months ago included some business zoning and the Planning Commission did not see fit to concur in their request for Business Zoning and when it came to Council a legal question arose as to whether they could change the petition to multi-family then, and there was some doubt, so in order to avoid confusion, they withdrew this portion from their petition. That the part which was zoned R-6MF at that time was the back part and surrounds this part on three sides, so it really would be inconsistent to have single family zoning so situated, and this is the basis for the Planning Commission's recommendation. And they concur in this and anyone would agree that this portion deserves multi-family zoning even more than the part which City Council saw fit to so rezone.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

PETITION NO. 65-86 FOR CHANGE IN ZONING OF A TRACT OF LAND EAST OF SHARON ROAD AND NORTHEAST OF NEW QUAIL HOLLOW ROAD, DEFERRED UNTIL THE NEXT HEARING DATE ON DECEMBER 20th.

Regarding Mr. M. Lee Heath's request for deferment of the hearing on Petition No. 65-86 for change in zoning of a tract of land east of Sharon Road and northeast of New Quail Hollow Road until the next hearing date on December 20th, Mr. Kiser, Acting City Attorney, stated Council may defer any public hearing without further necessity of advertisement if Council so desires. That the matter with respect to Mr. Horack was the time of his withdrawal of his petition so as not to run afoul of the new amendment which was recently adopted prohibiting withdrawal after a public hearing had been held on a matter.

Mayor Brookshire advised this particular petition has already been deferred by Council from October 18th until today, and he believes we are in order to hear it.

Councilman Jordan moved that the hearing be postponed as requested. The motion was seconded by Councilman Tuttle, and carried unanimously.

MEETING RECESSED AT 4:35 P.M. AND RECONVENED AT 4:45 P.M.

Mayor Brookshire declared a 10 minute recess of the meeting at 4:35 P.M. and reconvened the meeting at 4:45 P.M.

DECISION ON PETITION NO. 65-96 FOR CHANGE IN ZONING OF PROPERTY ON THE EAST SIDE OF FARMINGDALE DRIVE, BEGINNING 400 FT. FROM INDEPENDENCE BOULEVARD, DEFERRED FOR ONE WEEK.

Petition No. 65-96 by Mrs Gertrude M. Wallace, as amended, for a change in zoning from R-9 to B-2 of property on the east side of Farmingdale Drive, beginning 400 ft. from Independence Boulevard, was presented for Council action.

Councilman Tuttle stated that on a matter of this importance he is of the opinion that there should be a full Council present, which we do not have today. That perhaps if not a full Council, at least six members present, and he moved that the matter be deferred for one week. The motion was seconded by Councilman Whittington.

Councilman Jordan stated he would like to see this acted upon today, but he doesn't feel with two men absent we should, so he will go along with the recommendation.

Councilman Albea commented that there could be two members absent next week, that he is ready to vote now.

The vote was taken on the motion and carried unanimously.

CONTRACT AUTHORIZED WITH WILSON, MCCULLOUGH, YEARGIN & ASSOCIATES FOR ARCHITECTURAL SERVICES FOR REMODELING AND RENOVATING AREAS OF CHARLOTTE COMMUNITY HOSPITAL.

Upon motion of Councilman Albea, seconded by Councilman Short, and unanimously carried, a contract was authorized with Wilson, McCullough, Yeargin & Associates for architectural services for the remodeling and renovating of areas of Charlotte Community Hospital, at a price in accordance with the A.I.A. fee schedule.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON DECEMBER 20TH ON PETITIONS NO. 65-110 THROUGH 65-117 FOR CHANGES IN THE ZONING ORDINANCE.

Councilman Jordan moved the adoption of a Resolution Providing for Public Hearings on December 20th on Petitions No. 65-110 through 65-117 for changes in the Zoning Ordinance. The motion was seconded by Councilman Short, and unanimously carried. The resolution is recorded in full in Resolutions Book 5, at Page 156.

SUPPLEMENTAL AGREEMENT NO. 1 TO CONTRACT WITH WALKER & WHITESIDES, INC. FOR AIRPORT PROJECT 14, COVERING THE RELOCATION OF THE HYGROTHERMOMETER OWNED BY THE WEATHER BUREAU.

Upon motion of Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, Supplemental Agreement No. 1 to contract with Walker & Whitesides for Project 14 at Douglas Municipal Airport, was authorized, covering the relocation of the Hygrothermometer owned by the Weather Bureau which was not included in the original contract, in the amount of \$400.00 increase in the contract price.

CONTRACTS AUTHORIZED FOR THE APPRAISAL OF RIGHTS OF WAY FOR NORTHWEST EXPRESSWAY AND WOODLAWN ROAD WIDENING.

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

- (a) Contract with C. W. Todd for the appraisal of one parcel of land on Sunnyside Avenue for right of way for the Northwest Expressway.
- (b) Contract with L. H. Griffith for the appraisal of one parcel of land on Woodlawn Road for right of way for Woodlawn Road Widening.

AGREEMENT BETWEEN STATE HIGHWAY COMMISSION AND AMERICAN INVESTMENT COMPANY FOR INSTALLATION OF WATER MAIN IN REA ROAD, AUTHORIZED CO-SIGNED BY THE CITY.

Upon motion of Councilman Whittington, seconded by Councilman Albea, and unanimously carried, the City was authorized to co-sign an Agreement between the State Highway Commission and American Investment Company, for the installation of an 8-inch water main in Rea Road, outside the city limits.

CONTRACTS FOR INSTALLATION OF WATER MAINS TO SERVE BRIAR CREEK APARTMENTS AND OLDE PROVIDENCE SUBDIVISION SECTION 3, AUTHORIZED.

Upon motion of Councilman Whittington, seconded by Councilman Albea, and unanimously carried, the following contracts for the installation of water mains were authorized:

- (a) Contract with Briar Creek Corporation for the installation of 640 ft. of water main and one hydrant in Colonnade Drive to serve Briar Creek Apartments, inside the city limits, at an estimated cost of \$2,600.00. The City to finance all construction costs and the applicant to guarantee an annual gross water revenue equal to 10% of the total construction cost.
- (b) Contract with American Investment Company, for the installation of 1,250 feet of water mains and one hydrant in Olde Providence Subdivision, Section 3, outside the city limits, at an estimated cost of \$5,400.00. The applicant to pay the entire cost and own the mains and hydrants until such time as the area is incorporated into the city limits, at which time they will become the property of the city without further agreement.

CHANGE ORDER NO. 1 IN CONTRACT WITH BLYTHE BROS COMPANY FOR ASPHALT RESURFACING VARIOUS STREETS APPROVED.

Councilman Albea moved approval of Change Order No. 1 in contract with Blythe Bros Company for the asphalt resurfacing of various streets to cover expansion of the scope of resurfacing to include permanent pavements which are now ready for resurfacing but not anticipated at the time of the contract award and the surfacing of some widening strips which have been made since the contract award at an increase of \$26,486.00 in contract price, and for which adequate Powell Bill funds are available. The motion was seconded by Councilman Whittington, and unanimously carried.

ISSUANCE AND RENEWAL OF SPECIAL OFFICER PERMITS AUTHORIZED.

Motion was made by Councilman Albea, seconded by Councilman Tuttle, and unanimously carried, authorizing issuance and renewal of Special Officer Permits to the following persons:

- (a) Issuance of Permit to L. L. McKinney, for use on the premises of Southern Railway Company, West Liddell Street.
- (b) Renewal of Permits to the following persons for use on the premises of Charlotte Branch, Federal Reserve Bank of Richmond:

Ralph J. Beatty	Johnnie C. Mumford
George W. Blizzard	J. Wesley Parks
Price D. Cruthfield	Oliver W. Parks
Paul T. Guin	John E. Pettit
Paul E. Haefling	James E. Porter
David S. Harlee	John L. Puckett, Jr.
W. Frank Helderman	Burnie Snyder
W. Y. Henderson	Milton P. Therrell
Robert H. Horne	Odus H. Turner
Wade H. Linker	James R. Wall
John H. Miller	W. Paul Watson

TRANSFER OF CEMETERY LOTS.

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

- (a) Deed with Mr and Mrs Mason P. Thomas, for Lot 345, Section 2, Evergreen Cemetery, at \$480.00.
- (b) Deed with Mrs Loma S. Sledge, for Grave No. 6, Lot 154, Section 2, Evergreen Cemetery, at \$60.00.
- (c) Deed with Mrs Virginia J. Perdue, for Grave No. 2, Lot 155, Section 2, Evergreen Cemetery, at \$60.00.
- (d) Deed with Mrs Bonnie T. Weinoldt, for Grave No. 4, Lot 168, Section 2, Evergreen Cemetery, at \$60.00.
- (e) Deed with Margaret H. Jones for the north half of Lot 70, Section X, Elmwood Cemetery, transferred by Paul S. Jones, at \$3.00 for the transfer deed.

CONTRACT AWARDED PRISMO SAFETY CORPORATION FOR STOP SIGN FACES.

Councilman Whittington moved award of contract to the low bidder, Prismo Safety Corporation, for 500 red stop sign faces, in the amount of \$1,751.00. The motion was seconded by Councilman Tuttle, and carried unanimously.

The following bids were received:

Prismo Safety Corp.	\$ 1,751.00
Minnesota Mining & Mfg. Co.	1,957.00

CONTRACT AWARDED HARTSELL BROS FENCE COMPANY FOR CHAIN LINK FENCE.

Upon motion of Councilman Albea, seconded by Councilman Jordan, and un-animously carried, contract was awarded the low bidder, Hartsell Bros. Fence Company, for approximately 590 lin. ft. of chain link fence and 3 gates as specified, in the amount of \$1,300.00.

The following bids were received:

Hartsell Bros. Fence Co.	\$ 1,300.00
Allied Chain Link Fence Co.	1,456.38
Allison Fence Company	1,594.30
Charlotte Fence Builders	1,677.06
Anchor Fence Div.-Anchor Post	1,638.00

CONTRACT AWARDED CHARLOTTE-CHRYSLER PLYMOUTH, INC. FOR 39 AUTOMOBILES.

Councilman Jordan asked why Hutton-Scott did not bid on the Automobiles for the Police Department.

Mr. Queen, Asst. Purchasing Agent, replied because we went from 117 wheel base to 119, and they would have to bid 121, and they did not bid this time.

Mr. Bobo, Administrative Assistant, stated the reason for going to 119 was to get the larger car and also to get competition. That Ford and Chevrolet and those companies could not bid on the 117 without coming in with the compact. Now they can come in with the full car on this 119 wheel base.

Councilman Whittington moved award of contract to Charlotte Chrysler-Plymouth, Inc. the low bidder, in the amount of \$75,121.69 for 39 - 8 cylinder automobiles as specified. The motion was seconded by Councilman Albea, and carried unanimously.

The following bids were received:

Charlotte Chrysler-Plymouth, Inc.	\$75,121.69
Courtesy Motors, Inc.	75,446.34
Young Motor Company	75,588.00
LaPointe Chevrolet Company	78,533.15

CONTRACT AWARDED COURTESY MOTORS, INC. FOR ONE STATION WAGON.

Upon motion of Councilman Jordan, seconded by Councilman Short, and un-animously carried, contract was awarded Courtesy Motor Company, the low bidder, for one 8-cylinder station wagon as specified, in the amount of \$1,847.39.

The following bids were received:

Courtesy Motors, Inc.	\$ 1,847.39
Young Motor Company	1,876.07
LaPointe Chevrolet Co.	1,924.83
Charlotte Chrysler-Plymouth, Inc.	2,109.57

CONTRACT AWARDED COURTESY MOTORS, INC. FOR FOUR AUTOMOBILES.

Councilman Albea moved award of contract to the low bidder, Courtesy Motors, Inc. for four- 6 cylinder standard automobiles, in the amount of \$5,930.73 as specified. The motion was seconded by Councilman Whittington, and carried unanimously.

The following bids were received:

Courtesy Motors, Inc.	\$ 5,930.73
Young Motor Company	5,968.32
Charlotte Chrysler-Plymouth, Inc.	6,729.00
LaPointe Chevrolet Company	7,651.99

RESOLUTION OF SYMPATHY AND HONORING THE MEMORY OF CLAUDE ERSKINE BEATTY, ADOPTED.

Mayor Brookshire remarked that Mr. C. E. Beatty, our very fine Purchasing Agent, who has served the City well for so long, has passed away and he would like to read a resolution honoring his memory and expressing our sympathy to his family.

Following the reading of the resolution, Councilman Albea stated that Mr. Beatty came to work for the City in the middle 30s and with a short intermission during the War came back and has been here ever since. He then moved the adoption of the Resolution read by the Mayor, which was seconded by Councilman Jordan, and unanimously carried.

Mayor Brookshire then asked the members of the Council and the audience to stand for a few moments of silent tribute to the memory of Mr. Beatty.

The resolution is recorded in full in Resolutions Book 5, at Page 157.

CITY MANAGER INSTRUCTED TO PROCEED WITH HASTE TO PROVIDE AT LEAST TEMPORARY RELIEF FROM THE BLOCKING OF 36TH STREET CROSSING AND ALSO SPEED UP THE 28TH STREET PROJECT TO ASSURE PERMANENT RELIEF TO THE CITIZENS.

Mayor Brookshire advised that he has been requested to read to Council a letter from Mr. Thomas B. Watkins, President of the N. C. State Motor Club, and a portion of the letter was covered in a news release by Bill Noblett on last Saturday, and he would like to say to the Council and for the record that Mr. Noblett did not get the letter from the Mayor's office, he understands that he was able to get a copy of the letter elsewhere.

The Mayor read the letter in which Mr. Watkins stated that the community on N. Tryon Street has suffered long enough from trains blocking the 36th Street crossing by passing or stopping. That the complaint of one of his Company's employees about being delayed 35 minutes at this crossing was published in The Charlotte News on November 10th, and the employees of many other concerns in this area together with hundreds of cars of the general public are likewise held up both morning and afternoon. He stated it is their firm conviction that the answer lies completely with the City Council to open 28th Street by an underpass or overpass at the railroad tracks. That this has been included in the City's street plans for some-time but the years roll by without anything being accomplished. That 36th Street is the only way the large businesses and industries operating on North Tryon Street, Atando Avenue, etc and the public have convenient access to parts of north and east Charlotte, without going all the way back to the downtown business district. Mr. Watkins stated that the time for action on opening 28th Street has arrived and it should be given the priority that it deserves and the work should get underway.

The Mayor read his reply to Mr. Watkins, in which he stated that with the passage of the \$300,000,000 State Road Bond issue, and with Charlotte receiving nearly \$8,000,000 of this, we certainly will be able to do a great many things sooner than we otherwise might be able to do out of strictly local resources. That the opening of 28th Street is a part of our Master Thoroughfare Plan, but as yet it has not been scheduled, and he considers it one of the important needs that should be met as soon as possible.

Mayor Brookshire remarked that he discussed this with Mr. George Broadrick, State Highway Commissioner, this morning and he pointed out that the City will only be able to use these funds from the Bond Issue on state maintained streets, so we will not be able to use this money on 28th Street unless we have it put under the State Maintenance System, and he thinks Council might want to consider asking the State Highway Commission to do so and point out to the Commission that this would be an important connector to US 29, US 74 and he thinks US 1.

Councilman Jordan stated this points up a situation that has been building up as an intolerable situation over a period of years for the City's business and industry in the North Charlotte area, and has now reached the point where the hue and cry can no longer be ignored. All signs indicate that the present furor will not subside this time until positive steps are taken to afford them relief from the almost daily incidents of motor traffic being blocked for unreasonable periods of time by trains at the 36th Street and Tryon Street crossings. That he has gone on record time after time moving that the 28th Street project be given top priority and expedited as rapidly as possible. As the Council knows, he has filed with the Clerk this year a list of hundreds of names asking that something be done, and he has taken our City Manager out there on occasions to see and talk with the people, as well as having the Traffic Engineer make many studies of the time the traffic is stopped and for how long. That this project at one time was scheduled for completion in our Master Street Plan and a recent check with our Engineering Department reveals that nothing has been done on this project and that nothing is contemplated in the near future. That it is his hope that the Southern Railway and State will join with the City in providing the necessary funds for early action. That he feels that we, the City Council, have been remiss in our duty in failing to push this project to completion on schedule.

He moved that Council instruct the City Manager to proceed with all possible haste to at least provide any temporary relief that he can at the 36th Street crossing but also to speed up the 28th Street project to assure the permanent relief to which these citizens are entitled. Councilman Albea seconded the motion and remarked that seven years ago when they wanted us to widen 36th Street, he hesitated voting for it because of this double track mainline Southern Railway but he found out right quick that the people out there wanted 36th Street paved and anything else we did out there would be appreciated, so he voted for the paving of the street. That Mr. Jordan has worked hard for several years trying to get 28th Street opened.

Councilman Short stated if the motion does not include something about 36th Street he would like to ask that it be included; that he wants to avoid a situation where we concentrate completely on 28th Street and lose all sight of 36th Street. Councilman Jordan pointed out that his motion stated that at least temporary relief be provided at once at 36th Street. That as we all know the Traffic Engineer has made surveys many times on the 36th Street crossing and by court these trains have blocked the street as many as 27 times in one 24-hour period, and this is something that must be stopped.

The vote was taken on the motion and unanimously carried.

CITY MANAGER INSTRUCTED TO CONFER WITH STATE HIGHWAY COMMISSION RELATIVE TO THEIR TAKING OVER 28TH STREET FOR STATE MAINTENANCE.

Councilman Whittington moved that Council instruct the City Manager to confer with the State Highway Commission relative to their taking over 28th Street and allowing it to be State maintained. The motion was seconded by Councilman Jordan, and unanimously carried.

MAYOR REQUESTS COUNCIL TO SUBMIT THEIR RECOMMENDATIONS TO HIM ON THE AREAS RELATIVE TO POSSIBLE NEW SOURCES OF REVENUE AND TAXATION, TO BE CONSIDERED BY THE EXECUTIVE COMMITTEE OF THE N.C. LEAGUE OF MUNICIPALITIES ON DECEMBER 3RD, FROM WHICH THE LEAGUE WILL PRESENT RECOMMENDATIONS FOR CHANGES IN THE STATE AND LOCAL TAX AND REVENUE LAWS TO THE STATE TAX STUDY COMMITTEE ON DECEMBER 15TH.

Mayor Brookshire stated that from time to time we have discussed the efforts that we can make here and those that might be made through the League of Municipalities and the N. C. Association of County Commissioners to get a revision of the State and Local tax structure that would give some relief from ad valorem taxes. He stated he has two memorandums from President Begnal of the N. C. League of Municipalities. He read the first letter in which Mr. Begnal said that the most important single activity of the League during the year will be its work with the Tax Study Commission created by the 1965 General Assembly. That his first task is to prepare a written Brief to be submitted to the Commission by December 15th, expressing the municipal viewpoint regarding revenues and taxation, which will be the foundation for future work with this group. That he is calling a meeting of the League Executive Committee for December 3rd in Raleigh and has instructed the League staff to prepare material for the study of the Executive Committee prior to this meeting; that the material will be mailed to the Mayor within ten days and in addition each city and town in the State is being asked to submit suggestions and comments regarding revenue measures which would be considered at the December 3rd meeting.

Mayor Brookshire then read the second letter, in which President Begnal advised that the Tax Study Commission has been advised that he will submit to them a Brief of their suggestions and recommendations for changes in State and local tax and revenue laws by December 15th. He stated that the Executive Committee will formulate these proposals and what the League's position should be in this connection at its meeting on December 3rd, and the purpose of this letter to the Mayor is to inform him and the governing body of Charlotte of the area and items which will be studied between now and December 3rd by the Executive Committee and to ask that he be informed of any additional suggestions or proposals which they feel have merit.

The Mayor remarked at the conference in Asheville two weeks ago it was generally determined that the League of Municipalities and the N. C. Association of County Commissioners will work together in preparing this report for presentation to the Tax Study Commission. He then read the areas to be considered:

I. Property Tax

- A. Continued support of systematic revaluation and uniform assessment laws.
- B. Review of existing exemptions and favorable classifications.
- C. Exemption of intangibles property.
- D. Exemption of "manufacturers' inventories"
- E. Exemption of goods in public warehouses.

- F. Exemption of personal property
- G. Percentage rule for valuation of household and kitchen furniture
- H. Tying of State auto registration to payment of local taxes on autos
- I. Make-up, organization of State Board of Assessment.
- J. Valuation of public utility property
- K. Present \$1.50 tax rate limitation

II. Present State Shared Taxes

- A. "Powell Bill" street funds - increase
- B. Beer-Wine crown taxes - increase
- C. Utility Franchise Tax - increase
- D. Intangibles Property Tax (covered under I)

III. Business License Taxes

- A. Schedule "B" of State Revenue Act.
- B. General license taxing power of municipalities.
- C. Inequities in the system.
- D. Repeal of parts of Schedule "B" which prohibit or limit local taxes
- E. Revisal of State-County-Municipal licensing system

IV. Miscellaneous Local Taxes

- A. Poll Tax
- B. Dog Tax
- C. Automobile license tax - increase

V. Possible new sources of municipal revenue

- A. Share of present State Sales Tax
- B. Increase in State Sales Tax, with increase coming to local government.
- C. Local sales tax option, collected with State Sales Tax
- D. Local payroll (income) tax option
- E. State payments-in-lieu of taxes for exempt State-owned property.

VI. Miscellaneous Tax Problems

- A. Re-enactment of former municipal exemption from State Sales Tax, in place of present payment-refund system

Mayor Brookshire advised Council that he would have copies made of the items he has read, and mail them to them, and because of the shortness of time he will appreciate them getting back to his office any suggestions and thoughts they have on these matters he will see that they are given to the Executive Committee at their meeting in Raleigh on December 3rd.

INVITATION TO MAYOR AND COUNCIL FROM NATIONAL SCHOOL OF HEAVY EQUIPMENT OPERATION, TO TOUR THEIR FACILITIES AND TRAINING GROUNDS AT ANY TIME.

Mayor Brookshire read a letter from Mr. Robert L. Thompson, Vice-President of the National School of Heavy Equipment Operation, advising that with the opening of the School in Charlotte in 1955 there came into existence the world's first school for training heavy equipment operators and it is now called "The Harvard of the Trade Schools", and inviting the Mayor and Council members and any visitor to the City of Charlotte to be their guests and tour their facilities and training grounds at any time.

ORDINANCE NO. 394 AMENDING CHAPTER 20, ARTICLE V OF THE CODE OF THE CITY OF CHARLOTTE REGARDING THE OPERATION OF VEHICLES, ADOPTED.

Upon motion of Councilman Whittington, seconded by Councilman Tuttle, and unanimously carried, an ordinance entitled: Ordinance Amending Chapter 20, Article V of the Code of the City of Charlotte regarding the Operation of Vehicles, was adopted. The ordinance is recorded in full in Ordinance Book 14, beginning at Page 234.

ORDINANCE NO. 395 AMENDING CHAPTER 20, ARTICLE VI, OF THE CODE OF THE CITY OF CHARLOTTE REGARDING TRAFFIC ADMINISTRATION, ADOPTED.

Councilman Whittington moved the adoption of an ordinance entitled: Ordinance Amending Chapter 20, Article VI of the Code of the City of Charlotte Regarding Traffic Administration, which was seconded by Councilman Tuttle, and unanimously carried. The ordinance is recorded in full in Ordinance Book 14, at Page 236.

ACQUISITION OF PROPERTY AUTHORIZED FOR RIGHT OF WAY FOR NORTHWEST EXPRESSWAY, WOODLAWN ROAD WIDENING, RAW WATER TRANSMISSION LINE AND AIRPORT CLEAR ZONE, NORTH-SOUTH RUNWAY.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the following property transactions were authorized:

- (a) Acquisition of 5,313 sq. ft. of property at 304-06 N. Long Street, from Grady L and Robbie Lee Gillis Ross, at \$5,550.00 for right of way for the Northwest Expressway.
- (b) Acquisition of 4,150 sq. ft. of property at 901-03 N. Caldwell Street, from Robert L. Barber and wife, Addie H., at \$5,100.00 for right of way for the Northwest Expressway.
- (c) Acquisition of 58,560 sq. ft. of property at Kendrick and Ross Streets, from Bernice L. and Theodore H. Silber, at \$12,500.00 for right of way for the Northwest Expressway.
- (d) Acquisition of 632 sq. ft. of property at 1410 Woodlawn Road, from E. A. Smith, Jr. at \$850.00 for the Woodlawn Road Widening.
- (e) Acquisition of approximately 1,350 sq. ft. of property in 1200 block of Woodlawn Road, from Mrs Paul L. Snyder, at \$100.00 for right of way for the Woodlawn Road Widening.
- (f) Compensation for damage to trees and shrubs on the property of E. Bruce Davis and wife, Helen at 901 Woodlawn Road, in right of way for the Woodlawn Road Widening.
- (g) Acquisition of 30' x 550.15' of property off Plank Road, from Leighton E. McGinn and wife, Vernell W., at \$900.00 for easement right of way for raw water transmission line.
- (h) Acquisition of 2.39 acres of property in Berryhill Township, from Cecil A. McCall and wife, Joy Spratt, at \$6,750.00, for right for Airport Clear zone - North-South Runway.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR ACQUISITION OF PROPERTY OF DOROTHY R. KNOX, LOCATED AT 633 SUNNYSIDE AVENUE FOR NORTHWEST EXPRESSWAY.

Upon motion of Councilman Albae, seconded by Councilman Whittington, and unanimously carried, Resolution Authorizing Condemnation Proceedings for Acquisition of Property of Dorothy R. Knox, Located at 633 Sunnyside Avenue for Northwest Expressway, was adopted.

The resolution is recorded in full in Resolutions Book 5, at Page 158.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR ACQUISITION OF PROPERTY OF WOODROW PITTILO, LOCATED AT 900 NORTH BREVARD STREET FOR NORTHWEST EXPRESSWAY.

Councilman Albae moved adoption of a resolution entitled: Resolution Authorizing Condemnation Proceedings for Acquisition of Property of Woodrow Pittillo, located at 900 North Brevard Street for Northwest Expressway. The motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, at Page 159.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR ACQUISITION OF PROPERTY OF APPLIANCE SERVICE CORPORATION, LOCATED AT 500 TO 510 SEIGLE AVENUE FOR NORTHWEST EXPRESSWAY.

Motion was made by Councilman Albae, seconded by Councilman Whittington, and unanimously carried, adopting a resolution entitled: Resolution Authorizing Condemnation Proceedings for Acquisition of Property of Appliance Service Corporation, located at 500 to 510 Seigle Avenue for Northwest Expressway.

The resolution is recorded in full in Resolutions Book 5, at Page 160.

CONDEMNATION OF PROPERTY OF ELLIOTT M. SCHWARTZ AT 401 CRAIGHEAD ROAD, WEST FOR RIGHT OF WAY FOR SANITARY SEWER TO SERVE GLORY STREET, AUTHORIZED.

Upon motion of Councilman Albae, seconded by Councilman Whittington, and unanimously carried, condemnation of property of Elliott M. Schwartz, located at 401 Craighead Road West for right of way for sanitary sewer to serve Glory Street was authorized.

CITY MANAGER DIRECTED TO MAKE THOROUGH INVESTIGATION OF EXISTING CONDITIONS OF LAWLESSNESS IN THE 2900 BLOCK OF SELWYN AVENUE AND GIVE COUNCIL A REPORT ON HIS FINDINGS, AND ALSO ON EXACTLY WHAT THE POLICE DEPARTMENT IS DOING TO BREAK UP THE CONDITIONS AT THIS LOCATION.

Councilman Tuttle advised that Mr. Westmoreland who represents Mouzon Methodist Church on Selwyn Avenue and other neighborhood sources, on last Thursday reported the bad situation in the 2900 block of Selwyn Avenue; he was concerned about the hoodlums who hang out around a couple of drug stores and a vacant service station in the area of Hardee Pharmacy where there has been so much trouble; that around 7:45 p.m. the night before a group of these hoodlums were cursing and drinking and being abusive to one or two newspaper boys, and the Police were called. That Mr. Westmoreland tells him that to the knowledge of everyone concerned no Policeman was seen for at least an hour and a half. That Doctor Hardee told him that he

saw no sign of the Police and that the gang finally dispersed on their own around 9:30 that night.

Councilman Tuttle stated that this morning he had a telephone call from Mr. W. A. Pearson, Branch Manager of Sinclair Oil, practically a newcomer to Charlotte, who told him that their service station in this area was vacant and they could not get a tenant for the property due to the vandalism and abusive crowd who either destroys the property or keeps the public away. That Mr. Pearson stated he was astounded that such a situation could exist in a city the size of Charlotte, and Councilman Tuttle commented that he too is astounded.

He stated that week after week, month after month and year after year, this area has had this problem, and other than stationing Policemen out there on a permanent basis, which is impractical, he does not know the answer, but he believes that the City has a responsibility to allow free enterprise to operate and a responsibility to the public to make it safe for one to enter a drug store or any other establishment, and, in the case of this neighborhood, the City is not meeting its responsibility.

He asked the City Manager to make a thorough investigation of the situation as to the kind of damage being done, the people who are being abused, what type of gang is involved, and where they come from, and give Council a report on his findings, and at the same time a report on exactly what the Police Department is doing to try and break up this situation. That while it is not practical to police the area 24 hours a day, he is of the opinion that if our citizens and businesses are being hampered and endangered 24 hours a day, then the City may have to give protection 24 hours a day until such time as the lawlessness has been broken up.

Mr. Bobo, Administrative Assistant, advised the City Manager's office has a file on this and they are aware of the problem and the Police have been working on it. Councilman Tuttle replied that he called the Police a half dozen times, and has called Chief Hord at home at night, and the Police will concentrate on the problem for a few weeks and then stop and the citizens out there are again faced with the same problem.

Mayor Brookshire stated he has talked with the City Manager and Chief Hord on numerous occasions about this particular problem and we will keep looking for an answer or solution to it.

CITY MANAGER DIRECTED TO REPORT TO COUNCIL WHETHER PERMISSION FOR POLICEMEN TO WORK ON THEIR HOLIDAYS WILL GIVE THE EQUIVALENT OF TWELVE MORE MEN AND TO THE ATTITUDE OF THE OFFICERS TO THIS PLAN AND WHETHER THE ADDITIONAL TIME WOULD BE EFFECTIVE TIME.

Councilman Tuttle remarked that in line with what he has just discussed relative to the situation on Selwyn Avenue, the Council must consider whether or not we have ample police to cope with situation confronting us in Charlotte. That he believes the Police Department has their authorized personnel up to a point now where they are only about 8 men short; there is a question, however, whether or not the Department will be amply staffed to meet our growing needs when these eight men are secured.

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That at the present time Police are allowed working days a year vacation and after 15 years with the Department they are allowed 15 days vacation. That a Policeman is normally off 104 days a year, as they work a 5-day week. This leaves only a total of approximately 236 days on the average

which a Policeman works. If all of the Patrolmen, Detectives and Sergeants were paid for their 10 holidays this would amount to approximately 3,090 holidays and this would be the equivalent of 12 additional men. That he believes Chief Hord asked that sufficient money be allowed in the current budget to let these men work on their holidays, but it was denied.

That the Council has been talking about the Police Department and the shortage of men and here would be an opportunity, if what he has been told is correct, to actually pick up immediately the equivalent of 12 men. That had this plan been put into effect in time for the current year, it would have cost some \$71,000 for the extra time. New men, which we have been unable to get, would have also cost money, and he can see little difference in paying the money out to the present men if the Force is increased by 12 men or paying it out for additional men.

He suggested that Council ask the City Manager to look into this situation thoroughly and give us a report as to whether or not the permission for these men to work off their holidays will actually give the equivalent of 12 more men, and to report also on the attitude of the men and whether or not the additional time would be effective time.

Mr. Bobo, Administrative Assistant, stated this plan has been put into effect before and tried. That he questions the numbers that he has given and will be glad to get the information. That as he recalls it, one of the reasons it was abandoned was the effectiveness of it when in realizing that the men needed their time off for rest and recreation, and also it involved some of the other departments who felt when they did not take time off they should be paid too.

Councilman Tuttle stated to Mr. Bobo that this is no time to be thinking about other departments and their whims, we need Police protection, and he, personally, is not inclined to be concerned about extra healthy Policemen when we are supposed to have them working six days a week.

Mayor Brookshire called attention that we are running low in the Contingency Account and he doubts that we have \$71,000 in this budget year. Councilman Tuttle replied we are trying to replace men and we would pay them salaries, so what is the difference? Mayor Brookshire stated we are still looking for those eight, and if you used the money they would normally draw, what would you use for the recruiting program. Councilman Tuttle stated at the moment according to the Chief we would be much better off immediately because we would be adding twelve experienced men to the force.

Councilman Whittington asked that the City Manager bring in a report and then we would have something to go on.

ADJOURNMENT.

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


Lillian R. Hoffman, City Clerk