

An adjourned meeting of the City Council of the City of Charlotte, North Carolina, was held in the Criminal Court Room of the Mecklenburg County Court House, on Tuesday, October 4, 1955, at 7:30 o'clock p.m., continued from the meeting held on the Wednesday, September 28, 1955, at the same place. Mayor Van Every presided and Councilmen Albea, Baxter, Dellinger and Wilkinson were present.

Absent: Council members Brown, Evans and Smith.

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

PURPOSE OF MEETING.

Mayor Van Every stated that the purpose of the meeting is to continue the public hearing on the proposed zoning of the Charlotte Perimeter Area. He advised that the City Council will make no decision tonight on any request, but will study the question and make their decision on the requests presented on September 28th and tonight, at a later time.

CHANGE IN PROPOSED CLASSIFICATION OF TRACT OF LAND AT NORTHEAST CORNER OF PROVIDENCE ROAD AND SHARON-AMITY ROAD, FROM RESIDENCE TO BUSINESS, REQUESTED BY PROVIDENCE VILLAGE, INC. AND KARRS-FELLOS REALTY COMPANY.

Mr. P. C. Whitlock, Attorney, representing Providence Village, Inc. requested that the proposed classification of the tract of land at the northeast corner of Providence Road and Sharon-Amity Road be changed from RESIDENCE to BUSINESS. He advised that the property is owned by Mr. Caldwell McDonald and Mr. George Wilkinson, that it consists of 7.5 acres, running back 180 feet and fronting 300 feet on Providence Road. That the property, together with additional property at the rear of the lot in question, and fronting on Sharon-Amity Road, was purchased in July 1953 for commercial purposes. That a portion of the lot in question, fronting on Providence Road, lies within the Sharon Sanitary District. That the owners sold the property, fronting on Sharon-Amity Road, outside the Sharon Sanitary District, to people who wished to use it for commercial purposes, which they had a perfect right to do, and on which there has been erected a Telephone Exchange Building, a Super Market, Hardware Store, Drug Store, et cetera. That to include the corner lot in this business area is certainly logical. Mr. Whitlock quoted from the State Statutes that "the zoning law is based on the promotion of safety, health, morals, and general welfare; such regulations shall be made with reasonable consideration as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the appropriate use of land". He stated that the resulting traffic safety devices which would result from the erection of a business area, would promote safety in the area; that the businesses contemplated could in no way adversely affect the health of the area; that the convenience of a business area would promote public welfare and the morals of the community could certainly not be injured through the development of business.

Mr. Whitlock stated that the property is surrounded by highways and business; on the west side by Providence Road, which is State Highway No. 16, on the north by Sharon-Amity Road, a state maintained road, on the south by a dedicated street and on the east by the business area.

He stated the owners have tried to be fair with everyone, that the property was purchased for commercial reasons and was entirely unrestricted, and to zone it Residential will deprive the owners of their property rights and take the greater portion of its value.

Mr. George J. Miller, Attorney representing Karres-Fellos Realty Company, Louis J. Pappas, Tom Kleto and Steve P. Fellos, owners of the property located on Sharon-Amity Road, 300 feet north of the Providence Road-Sharon Amity Road intersection, requested that the proposed classification as RESIDENCE be changed to BUSINESS.

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He advised that his clients purchased the property from Providence Village, Inc., solely to construct a business area. That there were no property restrictions on it whatsoever and the owners cannot be condemned for erecting business thereon. That his clients would like both it, and the corner lot referred to by Mr. Whitlock zoned as Business. That unless their present business area is zoned for Business they will be unable to expand at all. That they have a large amount of finances invested in the property, and to zone it Residential would decrease its value. That there is nothing damaging to the area from the development of a business area in the section; that they provide off-street parking.

Mr. Miller stated further that the business buildings were constructed under City of Charlotte building permits, and if this zoning was contemplated, they should have been told something about it at that time. He asked that their property be zoned Business instead of Residence as recommended by the Planning Commission.

Mr. S. R. Brookshire stated he has listened to Mr. Whitlock and that nothing new has been brought out that was not presented to the Planning Commission during its hearings and before they made their recommendation to the City Council that the area be zoned Residential. He presented a large group of approximately 100 residents of the area who he stated are interested in retaining the status quo of the area, and who support the Planning Commission in its recommendation.

He stated it is the citizens of a community that makes the character of a neighborhood. That the area is residential and represents millions of dollars in home valuations. That it is several miles to an industrial area. That the citizens are vitally interested in preserving the character of the area. That they contend it is to the best interest of Charlotte that the only remaining area of the perimeter area of Charlotte be left uncluttered with commercial developments. That the citizens of the area worked diligently in trying to prevent the owners of the property on Sharon-Amity Road from developing a business area, the same as they are now trying to prevent the spread of that business area. That when Mr. McDonald purchased the property, surrounded by residences, and it was understood it was for commercial development, the residents formed a committee and contacted Mr. McDonald and presented him with a petition, through his attorneys, asking that he sell the property for residential purposes, and they found him most uncooperative.

Mr. Brookshire stated further that it would be detrimental to develop this corner as business. That it will be just the beginning and business will spread in the area. That Mr. McDonald states the residential value of the property has been destroyed by the business area at the rear, fronting on Sharon-Amity Road; however, the residents contend this is not true, that a hedge-row could be planted at the rear of the property to separate it from the business area. Too, if the value of the property as residential has been diminished, then he has only himself to blame for selling the property for business purposes. That this is a private enterprise asking the Council to do something for private gain against the residents of the area.

He stated that the Planning Commission has employed competent engineers, and their knowledge should be trusted as to the proper zoning.

Mr. Lloyd Mumaw stated he lives on Sharon Lane, as does Mr. Al Goodman, and both of them object to the requested Business classification of the property. He stated he is a member of the Sharon Sanitary Committee and Sharon Zoning Committee; that in 1946 there were eight cases of polio in the area and the matter of drainage ^{was} gone into and the boundaries of the district established. He stated over 80 percent of the residents petition for the Residence-1 zone; that they know of three business men who will purchase the property in question with no financial loss to Mr. McDonald. That the main point is that if a Business zone is established on Providence Road, it will be the beginning of opening up the area to business, and the residents ask that it not be done.

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Mr. W. D. Turner advised that he resides right next to the property in question; that he purchased his property in 1950 and has a lot with 211 foot frontage. That he had no idea of purchasing a residence in anything but a strictly residential area. That he and the other residents do not want stores in the area of Providence Road and they uphold the Planning Commission in its recommendation that the property be zoned residential.

Mr. Wiss Barker stated he lives one block from the Providence Road-Sharon Amity intersection, and is vitally interested in the entire area remaining residential.

Mr. Roy Parnell stated he lives in the same block of the property in question, and has a 300 foot frontage, and wishes the area to remain residential.

Mr. M. E. Glendinning, 1419 Sharon-Amity Road, stated that it is only one half mile to the nearest service station, so no one would suffer from the lack of the contemplated Service Station on the property in question. That the residential atmosphere of the area should be maintained and he asked that the requested Business zone not be permitted.

Mr. Gordon Wells stated he resides on Providence Road just west of the Providence Road, Sharon-Amity Road intersection. That they have worked hard to keep business away from the area, as they know it will spread if it is once established. That he purchased his property from Mr. Caldwell McDonald, who claimed it was the finest residential area in Charlotte, and now Mr. McDonald wants to come into that fine residential area and for the sake of a few dollars, wreck it residentially. He stated he lived on Altondale prior to purchasing the Providence Road property and saw one business erected on Providence Road and Altondale and then it spread until it now extends all the way down Providence Road past the Queens Road intersection, and the traffic hazard has increased with it.

Mr. Hunter Jones, Attorney representing Providence Village, Inc. called attention to the statement of Mr. Brookshire that the Council should take the decision of the zoning experts. That is not where the law puts it, Mr. Jones stated, but rather the decision rests with the City Council. He stated that zoning is one of the most far reaching powers the Council has. That if you confiscate a man's property you must pay him for it, but under zoning you can reduce the value of that property and you can't give him compensation. That these speakers are requesting that the Council take four-fifths of the value of Mr. McDonald's property. That property was purchased for commercial purposes and it was entirely unrestricted. These speakers say they warned Mr. McDonald that he should stop the development of a business area; that Mr. McDonald replied that he would meet with them and discuss the question. That their answer to that was a petition to impose a residential zone on the property and the sole purpose in inacting the Sanitary Zoning Ordinance was to stop this business development, and not to promote the health and welfare of the area as inferred. He stated further that the purpose of zoning is to plan, not to suit a group of people at the loss of the property owner. That it does not comply with the purpose of zoning to say that it is in the interest of public safety, welfare and health that this corner, bounded by Providence Road, Sharon-Amity Road, Crosby Road and a business area, must have a residence erected on it. That the statement that by zoning this one tract of land as business will open up the whole road to business is a mistaken idea, because that would be entirely up to the City Council. As for the construction of a Service Station on the property, the proposal was made today that if it would satisfy these citizens, the owners would be willing to put a restriction on the property for it ever being used as a Service Station; however, he gathered from what they said, they will not be satisfied except for a Residential zone.

Mr. Brookshire stated they are acting in defense of the Planning Commission's recommendation to the Council. That Mr. Jones states there are no restrictions on Providence Road; however, you will find the records in the Court House show restrictions were imposed on the purchasers of property and this one tract in question was not restricted because the owners were still residing there when the restrictions were imposed on the other

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properties as they were sold. He stated that the property in question is less than four acres and he does not believe the Council can think that it is sufficient for a shopping center and off-street parking.

Mr. Brookshire stated further that the best way to make a political football out of this matter is to ignore the Planning Commission and their recommendation.

CHANGE IN PROPOSED CLASSIFICATION OF PORTION OF GODLEY PROPERTY LOCATED AT OAKDALE AND MT. HOLLY ROADS, FROM RESIDENTIAL TO INDUSTRIAL, REQUESTED BY M. R. GODLEY.

Mr. Charlie J. Henderson, Attorney, representing Mr. M. R. Godley, requested a change in the proposed classification of a portion of the Godley property located at Oakdale and Mt. Holly Roads, from RESIDENTIAL to INDUSTRIAL.

Mr. Henderson advised that it is unusual in that the Planning Commission made no recommendation on this request to the Council; they state they have not studied it. He advised that under the Residential zone, the City would be in violation if they erect the proposed Irwin Creek Disposal Plant on the City's ^{adjacent} property, as morally you cannot construct an industrial plant adjacent to a residential area. Mr. Henderson stated the area is already industrial, that on Rozzell's Ferry Road there is first a Steel Warehouse, then Surmour Corp., Carolina Ford Tractor Co., J. J. Case Company, all on spur tracks. Then the large Shopping Center, an Implement Repair Center, and then back from that the Godleys three big warehouses. Next Lowe Hardware, a Service Station, Pinoca Fire Department, Drive-In Theatre, McClure Lumber Company and Leaksville Woolen Mills and the city's land for the Disposal Plant. Then comes the new Highway #16. In fact, there are only a few negro residences in the area. He advised that his client wants to put in a spur track and wants it in the area recommended as Rural. He asked that the dividing line for zoning be established far enough back from the highway, where the natural property lines are, so it will be logical. If the line is drawn at the rear of the Plank Road property, it will be the normal line and hurt no one. That it boils down to this, if the City can morally build the Irwin Creek Disposal Plant in the recommended Rural area, then the next property owner should be able to do the same thing.

CHANGE IN PROPOSED CLASSIFICATION OF CAROLINA GOLF COURSE AND ADJACENT PROPERTY LYING SOUTH AND EAST OF THE GOLF COURSE, FROM RURAL, RESIDENTIAL AND INDUSTRIAL TO INDUSTRIAL FOR THE ENTIRE AREA, REQUESTED BY ATTORNEYS DAVID HENDERSON AND PAUL R. ERVIN.

Mr. David Henderson, Attorney, stated he has been appointed as Commissioner by the Court to sell the Carolina Golf Course property, and the negotiations have been under way for about a year. That he hopes the Council will take steps to change the recommended classification.

Mr. Paul Ervin, Attorney, stated the property is bounded by the Southern Railway and by the new Crossline and on the south by a negro area on Wilmont Road. That the Planning Commission has provided a strip 500-foot wide for INDUSTRIAL and the remainder of the property as RURAL. He stated it is an industrial area and the 500 foot strip only for Industrial uses is absurd. He stated further that they are interested now in establishing an industry on the property that will benefit Charlotte, and urged that the property be given an INDUSTRIAL classification.

No objections were expressed to the proposal.

CHANGE IN PROPOSED CLASSIFICATION OF EIGHT PIECES OF PROPERTY, BY PAUL R. ERVIN, ATTORNEY.

Mr. Paul R. Ervin, Attorney, requested a change in the classification of eight pieces of property that is the concern of Ervin Construction Company:

- (1) He requested that the proposed classification on the lot at the southwest intersection of Park Road and Mockingbird Lane be changed from RESIDENCE to BUSINESS-1 on the front portion,

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on which a service station has already been erected and which takes up only half the property. He stated they would like to put a duplex or something of that nature here as a buffer between the service station and the residences. And that the rear portion, fronting on Mockingbird Lane be changed from RESIDENCE to RESIDENCE-2.

No objections to the proposed change were expressed.

- (2) He requested that the proposed classification of a tract of land located at the intersection of South Hoskins Avenue and Hovis Circle adjacent to Beechwood Acres, be changed from RESIDENCE-1 to BUSINESS-1. He stated they developed Beechwood Acres and this is a part of that property; that it is unsuitable for residential purposes, as it is a small triangle and they would like to use it for a store.

No objections were offered to the proposal, and Mr. A. G. Brown, owner of adjacent property, stated he had no objections to the change.

- (3) He requested the proposed classification of tract of land lying between the P & N Railway and Beechwood Acres and Hoskins Avenue, be changed from RESIDENCE to BUSINESS-1. Mr. Ervin stated this property consists of 10 acres and was designated in Beechwood Acres Subdivision for a shopping center and so approved by FHA, and is not suitable for residential purposes.

No objections were expressed to the change.

- (4) He requested that the proposed classification of a small area lying between Brown's Trailer Park and the P & N Railway, fronting on Hoskins Avenue, be changed from RESIDENCE to BUSINESS-1. Mr. Ervin advised that when you cross the P & N Railway leading into Beechwood Acres #2, there is an area 50 to 100 feet that is unsuitable for a residence, and they would like to use it as a Park but wish it zoned B-1.

No objections were offered to the proposal.

- (5) He requested that the proposed classification of a tract of land on Independence Boulevard, at its intersection with the cut-off to the Albemarle Road, be changed from the front portion as BUSINESS and the rear portion as RESIDENCE, to the entire lot as BUSINESS-1. Mr. Ervin advised that the Planning Commission recommends that the tract be zoned Business for a depth of 300 feet, which splits the lot into, and they feel it should all be Business-1.

No objections were expressed to the proposed change.

- (6) He requested that the proposed classification of the land fronting on the south side of Independence Boulevard, lying between Independence Boulevard and Pierson Drive, be changed from the front 250-foot fronting on Independence Boulevard classified as BUSINESS and the remainder as RESIDENCE-1, to the entire tract classified as BUSINESS-1. Mr. Ervin advised that under the proposed classification a portion of the lot will be of no use, and the B-1 zoning will give them the full use of the property.

There were no objections to the proposal.

- (7) He requested that the proposed classification of tract of land at the intersection of Potters Road and Eastway Drive, be changed from RESIDENCE to BUSINESS-1. Mr. Ervin advised

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that the property is located in Markham Village, just to the left of Eastway Drive and is between Eastway Drive and Country Club Lane. That there is no shopping center in the area and the residents of the Village have asked that one be provided; that these are mostly one-car families and badly need a grocery store nearby. He stated further that Country Club Drive is now being opened and it will provide access for the large number of residents of that street to the shopping center.

No objections were expressed to his request.

- (8) He requested that the parcel of land adjoining the Queensland Shopping Center and lying on both sides of Meredith Avenue be changed from RESIDENCE-1 to RESIDENCE-2. He stated there are about 150 houses being constructed by them nearby, which area has been zoned as R-1 and they want it to remain R-1, but want an R-2 area between the residences and Queensland Shopping Center on Wilkinson Boulevard.

There were no objections to the proposal.

CHANGE IN PROPOSED CLASSIFICATION OF VACANT LAND LOCATED ON THE NEW CROSS-LINE OF SOUTHERN RAILWAY, APPROXIMATELY 2600 FEET BEYOND THE CAROLINA GOLF COURSE PROPERTY, FROM RURAL TO INDUSTRIAL, REQUESTED BY S. J. DUNAVANT, OWNER.

Mr. Ben Whiting, Attorney representing Mr. S. J. Dunavant, requested that the proposed classification of 60 acres of vacant land located on the new Cross-line of the Southern Railway, approximately 2600 feet beyond the Carolina Golf Course property, be changed from RURAL to INDUSTRIAL.

Mr. Whiting stated the Cross-line Railroad runs through the property; that if the railroad had been there a few years ago the property would already be industrial just as the railroad property is, and it will have to be so zoned at sometime as industry will need it on the cross-line. That nothing can be developed on it under the Rural classification. That if the property were in the country it could be used as Rural but it is ideally situated for industrial development. He stated it would be unfair to the owner not to be able to sell the property for industrial development now, instead of having to hold it until the area opens up, and then request an industrial zoning. Mr. Whiting stated that no one in the area will be hurt, and he urged that the Rural classification be changed to Industrial now.

No objections to the request were expressed.

REQUEST BY LEE HEATH THAT DUPLEX OR APARTMENT HOUSE ON CANTERBURY DRIVE BE CHANGED FROM R-1 CLASSIFICATION TO THE SAME R-2 CLASSIFICATION GIVEN COTSWOLD, AND REQUEST THAT COUNCIL STUDY THE TIGHT ZONING RECOMMENDED BY PLANNING COMMISSION.

Mr. Lee Heath stated that he has a duplex or apartment house on Canterbury Drive, which was constructed at the same time Cotswold, which contains 150 apartments, was built. That the Planning Commission has zoned his property R-1 and Cotswold as R-2. That he thinks his property should have the same classification as Cotswold. He stated further that he will wait and see if he will be blessed as Mr. Blythe was with this R-2 zoning.

Mr. Heath stated he thinks the City Council should consider the professional builder. That he is proud of his profession and is getting tired of having it raked over the coals, as in his opinion they have done a good job in the development of Charlotte. He stated he is not opposed to zoning but is opposed to its application. That he advocated getting a professional zoning staff, but he thinks they are too tight in their recommendations. He asked that the Council study this before making their decision on perimeter zoning.

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REQUEST THAT PROPOSED RURAL CLASSIFICATION BY PLANNING COMMISSION REMAIN ON TWO TRACTS OF LAND AT INTERSECTION OF PROVIDENCE ROAD AND SARDIS ROAD, BY DR. OLIN OWEN.

Dr. Olin Owen protested the requested change in zoning from RURAL to BUSINESS on the two tracts of land at the intersection of Providence Road and Sardis Road, by Mr. Henry Newson (who was not present at the Hearings) and asked that the entire area remain zoned as RURAL. Dr. Owen stated that this property is in the same area as Providence Road, Sharon-Amity Road and they do not want business coming into the area on the same grounds as expressed by the residents of the Providence, Sharon-Amity area.

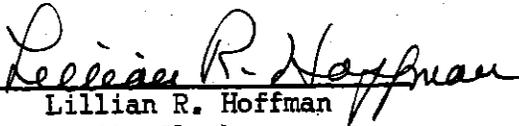
CHANGE IN PROPOSED CLASSIFICATION OF RESIDENCE IN WHICH BUSINESS IS OPERATED AT 4301 SOUTH HOWIE CIRCLE, FROM RESIDENCE TO BUSINESS, REQUESTED BY WILLIAM J. KEMENCZKY.

Mr. William J. Demenczky, 4301 South Howie Circle, stated he purchased his home on South Howie Circle 2½ years ago and started a furniture repair and upholstery business in his home. That the property is located 150 feet from the railroad and 2 1/2 blocks from an industrial area. That he has never had any complaints from the neighbors. That it has now been proposed for a RESIDENCE zone, and he would like it changed to BUSINESS, or would like to know if he can get a license to operate the business legally.

The City Attorney explained that he can operate under a Residence zone, as a non-conforming use of the zone, but he could not expand his business after the residential zone is established, nor could he rebuild the business part if the property should burn.

ADJOURNMENT.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the meeting was adjourned.


Lillian R. Hoffman
City Clerk