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The City Council of the City of Charlotte, North Carolina, met on Monday, September 15, 1975, at 7:30 o'clock p.m., in the Board of Education Meeting Room, for a televised meeting, with Mayor John M. Belk presiding, and Councilmembers Harvey B. Gantt, Kenneth R. Harris, Pat Locke, Milton Short, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: None.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and, as a separate body, held its public hearings on the zoning petitions, with Chairman Tate, and Commissioners Boyce, Heard, Finley, Jolly, Ross, Ervin, Marrash and Royal present.

ABSENT: Commissioner Kirk

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INVOCATION.

The invocation was given by Councilman Neil Williams.

MINUTES APPROVED.

Upon motion of Councilman Whittington, seconded by Councilman Short, and unanimously carried, the minutes of the last meeting, on September 8, 1975 were approved as submitted, with the following correction:

Minute Book 62 - Page 224, last line, second word, change "Freeway" to "Boulevard" making the name change of Bellhaven Boulevard within the city limits "Brookshire Boulevard."

HEARING ON PETITION NO. 75-22 BY WILLIAM F. EZELL FOR A CHANGE IN ZONING FROM R-9MF TO B-1 OF PROPERTY FRONTING 349.35 FEET ON THE SOUTH SIDE OF NEWELL-HICKORY GROVE ROAD AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NEWELL-HICKORY GROVE ROAD AND TANTILLA CIRCLE.

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

Mr. Fred Bryant, Assistant Planning Director, explained the location of the property, and the surrounding areas, stating the property is located on Newell-Hickory Grove Road and consists of two lots located at the intersection of Tantilla Circle. He stated the property is vacant as is the property to the west and rear of the property, with the property across Tantilla Circle also vacant. There are some single family residences on the west side of Hickory Grove Road, with a number of single family residences further along Tantilla Circle. The nearest non-residential use is Marco Engineering which is a structural steel fabrication, and occupies all the area down to the Norfolk Southern Railway.

The property is zoned R-9MF as is all the property from the subject tract to the north on the west side of the Hickory Grove Road. All the property in the area of Tantilla and to the west of the old Hickory Grove Road is zoned R-9MF. Adjoining the subject property on the south is a band of O-15 which carries through down to the Norfolk Southern Railway; there is

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I-2 zoning along the northerly side of the railroad to accommodate the structural steel facility. East of the Newell-Hickory Grove Road there is multi-family zoning; then begins a large area of R-15. The subject property has multi-family zoning on three sides and office on the fourth side.

Mr. Lloyd Baucom, Attorney representing the petitioners, Mr. & Mrs. Ezell, stated the request is to change the classification to B-1 in order for them to move their present business from the Villa Heights Area to this location. That they now operate the Ezell's Soda Shop in the Villa Heights Area, and have operated there for about 13 years. At the beginning it was a typical middle class neighborhood; now the situation has greatly deteriorated. He presented some statistics about the business and the number of times they have been robbed. He stated they are 57 and 52 years old and want to stay in this business. They bought the property a few years ago with the idea of moving out there. There were some deed restrictions on the property which expired in July of this year. So the only limitation they now have is the zoning of the property.

He stated Mr. & Mrs. Ezell plan to build a very small carry out food operation with the building probably 1300 to 1400 feet in size. It will be a total carry out business, with no on premises beer and no on premises eating. Their investigations indicates there is not a hot food place within at least two miles of this property at present in operation. That Mr. Ezell has discussed this proposition with some of the businessmen in downtown Hickory Grove and they indicate they feel such a facility will be beneficial and meet the needs of the community. He stated they do not feel this would constitute any adverse effect on the houses that are some distance away, especially in light of the Marco Steel Complex.

Mr. Baucom stated on the agenda tonight is a proposal to bring into the city zoning ordinance, the conditional district as a controlled use of B-1. He asked Council to consider what he has said in light of the limitation and controlled use that can be retained if the petitioners are given an opportunity to prove that all they want to do is put a small family business on this large lot of land and not interfere with anyone. He requested the petition be granted either as a straight B-1, or assuming Council adopts the conditional district, defer until that matter can be explored and the details required to implement such a plan is submitted to the proper authorities.

Mrs. Betty Howell, 4424 Tantilla Circle, stated she has a group of people with her in protest of this petition. She stated a restaurant is not needed in this area; that within a 3 and 1/2 mile radius, over 30 eating establishments are now in existence (this includes Eastland Mall). That no regard is being shown for their neighborhood; that the owner of this property lives in another area. She stated that Newell-Hickory Grove Road is two lanes with a 55 MPH limit and is already overloaded with normal traffic. This also adjoins the already dangerous intersection of Newell-Hickory Grove Road and Robinson Church Road where numerous accidents have occurred - one as recently as last Thursday. The other entrance of Tantilla Circle is the location of their school bus stop, and there are 18 children now living on Tantilla Circle ranging in ages from kindergarten to high school. The comprehensive plan approved by Council does not provide for this commercial use; obviously this is a spot zone request and spot zoning leads to strip zoning. She stated she hopes this Council and the Planning Commission will understand their thinking and their desires and their goals and reject the zoning petition.

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During the discussion Councilman Gantt asked Ms. Howell if this development of single family houses was developed prior to the industrial use, Marco Steel Company, and she replied it was there when they moved in. But they cannot see it from their location.

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

HEARING ON PETITION NO. 75-23 BY ETTA FURR SMITH FOR A CHANGE IN ZONING FROM R-6MF TO B-1 OF PROPERTY FRONTING 100 FEET ON WEST BOULEVARD AND 429.8 FEET ON DR. CARVER DRIVE ON THE NORTHWEST CORNER OF THE INTERSECTION OF WEST BOULEVARD AND DR. CARVER DRIVE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, explained the location of the property, the land use of the subject property and the surrounding area and the zoning.

He stated the property is located at the northwest corner of the intersection of West Boulevard and Dr. Carver Drive and it has on it a single family house on the front portion. The rear portion is used for gardening purposes and at the time he was out there, there was a produce shed located there and produce was being sold from the garden; but the primary purpose was for single family residence. West of Dr. Carver Road is a solid pattern of single family homes; this is true on both sides of West Boulevard. To the east there is a similar pattern of single family homes. At the intersection of Dr. Carver and Maiden Street is the Pierson Manufacturing Company which has been located in the area for a number of years, and carries on a light manufacturing operation. There is some apartment development behind there and to the east along Maiden Street. There is one non-conforming use which is a rear yard garage operation that was there prior to zoning and is non-conforming. Other than that there is considerable vacant land in the vicinity with the primary pattern of land use being single family use. About a block away being a pattern of office zoning along West Boulevard; then a rather extensive pattern of B-1 to the west from that point. Within the immediate range of the subject property the zoning is R-6MF with the exception of the I-1 zoning.

Mrs. Etta Furr Smith, the petitioner, stated the house is old and it is not worth repairing. Since there are two businesses across the street and one to the back of here, it seems she could sell it for business and it would help her in her old age.

Mrs. Carrie Graves, 2206A Farmer Street, stated she is Chairperson of the West Boulevard Coalition, and that the residents of the West Boulevard community and members of the Coalition object to this rezoning, and any other rezoning of property in their community for business. They feel there is enough land in the area zoned B-1 for anyone who desired to operate or build any type of business.

She stated they understand Ms. Smith's position; but feel the priorities that should be considered are the concerns and demands of their community, and that is to leave the property zoned as it is. They have enough to deal with now due to the disinterest of the businesses already there to clean up the eyesores they have created along West Boulevard. They feel if this property is rezoned, it will open the door for others to do the same. She asked if it would not be feasible to take a chance on bringing the quality of the dwelling up and ask for substantial rental fee or sell it and give some family a chance to repair it as needed and give someone a home to live in.

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

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HEARING ON PETITION NO. 75-24 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO CONSIDER AN AMENDMENT TO THE ZONING ORDINANCE CONCERNING INSTITUTIONAL USES SUCH AS DAY CARE CENTERS, HALF WAY HOUSES AND NURSING HOMES WHERE CERTAIN USES ARE CHANGED FROM USES BY RIGHT TO CONDITIONAL USES IN RESIDENTIAL DISTRICTS.

The scheduled hearing was held on the subject petition for an amendment to the zoning ordinance.

Mr. Fred Bryant, Assistant Planning Director, stated this particular request deals with the text of the zoning ordinance, rather than applying to any particular parcel or tract of land within the City of Charlotte, by dealing with the text of the regulations, and of course potentially deals with any proposed use which involved the activities as contained in the proposed change matter and does not again reflect on any individual tract of land or partial of land at this time.

The ordinance at present allows many institutional type uses such as day care centers, nursing homes, YMCA's, YWCA's, fraternal organizations to locate in residential areas by right. When taking into consideration such uses as day care centers, nursing homes, YMCA's etc., these types of uses can under some circumstances present some problem for the residential characteristics and environment of the neighborhood. Therefore some concern was expressed that perhaps an investigation should be made as to the responsibility of controlling these type uses in some sort of different fashion rather than just making them automatically a use by right in residential locations. What they have tonight for consideration does exactly that. This is a proposal which has been considered by the Planning Commission, it has not been recommended to Council as yet by the Planning Commission. It has been recommended for public hearing so that Council and the Planning Commission can have the benefit of any public reaction to the proposal and the explanation would be made of it and then the Planning Commission would have the formal time period to relate back to Council their recommendation of the proposal.

He supposes the most significant use in the list of activities that are proposed for consideration here is the day care center. Over the years a number of situations have developed where day care centers has been the cause of some concern as they are located and are situated in residential environments. We recognize that a day care center or care facility is a very significant and important part of a residential neighborhood. It performs a service; it performs a use that is needed in relation to residential activities. Obviously you do not locate day care center, for the care of children, in industrial areas. So it is to a certain extent a part of the residential makeup of a neighborhood. The important thing to consider here is whether or not a specific type of neighborhood or day care center, in a particular location with relationship to existing homes, etc., whether or not that is proper under any one specific situation.

At the present time, there is no review process involved, so that if you own the property, it is zoned residential, the day care center does become a possibility. Under the proposal for change, a day care center would be first of all broken down into two separate definition categories. The small day care facility as it relates to particular and specific neighborhood situations can be very viable. A very valuable relationship can be established between day care facility in the neighborhood and the neighborhood around it, particularly if it is a small facility; if it is operated by people residing in the home and therefore have an interest in maintaining it from a visual standpoint.

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The proposal here is to break the category into two separate definitions. The first is something that is proposed to be called a small group day care home. It is proposed that something that would qualify as a small group day care home, would continue to be allowed as a use by right in residential areas. It has to qualify on two points. First it would have to be in the size category not to exceed 15 children. Second, it would have to meet the definition that the public facility is operated by a resident of the house of which the facility is operated. If these two conditions were met, it could continue to be a use by right in the residential district. However, if it becomes larger than 15 children, or if it is operated by a process that does not involve people residing in the home, occupying it as a residence, then it becomes by definition a day care center, and that becomes a conditional use in the residential district, both single family and multi-family.

By conditional it is meant that if someone proposes to locate a day care center in a residential district, it would have to follow the conditional use approval. A process which in effect means that each individual site would have to be reviewed by City Council through a public hearing process and specific approval given to the right to utilize that particular site for that purpose. It does not mean that a day care center cannot locate in residential districts, but it does mean that the locations and the proposal for the use would have to be reviewed by Council through a public hearing process and that particular site considered and approved or rejected. So this is a matter of installing controls as far as the larger center is concerned, bringing control of it into the residential environment.

Councilman Gantt asked if the conditional use provision includes the submittal of an actual site plan of the center. Mr. Bryant replied yes it does. There is contained within the ordinance definition of the material that would have to be submitted as part of the request for rezoning, and it does involve at least enough site plan information so that you will know the relationship the structure will have to adjoining property, the relationship it will have to the street, where parking and circulation will be and so forth.

One of the reasons for selecting the break point of 15 children as the definition between this type of facility and this type, is that this also conforms to State Regulations pertaining to structural conditions that apply to the facility. If a day care facility providing for more than 15 children is to be located at a particular site, it does require meeting of additional requirements from a structural code standpoint. Since it is broken at that point for the state level, staff felt it was also significant to break it at that point for this purpose. They did find in the study of existing facilities that about 85% of the present facilities in the City of Charlotte are of this type. This is by far the minority of land uses. But they feel there is legitimate reason for maintaining validity of a small scale facility with less detail required for its location.

Councilman Short stated day care centers include kindergartens. There are churches operating kindergartens and day care centers in residential zoned areas. Mr. Bryant replied yes there are, but the difference is this is an accessory use, it is not the principal use. The day care center or the kindergarten when operated by a church is considered an accessory to the primary use, which is Church of course.

There are some additional changes that are proposed. For example, it has been proposed that the parking requirements be changed slightly for these facilities. First prohibit parking in the front setback. One of the problems that has evolved in the residential areas, has been the fact

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that up until now, these uses have been allowed to go in residential environments and to construct a parking lot out to the street right of way and this is contrary to the normal visual affect to the residential situation. This proposal would prohibit parking within the required setback area. In addition, the amount of parking has changed slightly. At the present time, there is parking requirements only for one space for each adult attendant. This related parking only to the number of people who work there, and had no relationship to the actual number of children enrolled. The proposal is to change the parking requirement to one space for each two adult attendants and then in addition one space for each 10 children. This brings in the dual factor of the relationship of the number of children and the relationship to the number of attendants as well. The space requirement for the attendants has been cut from one for one to one for two, so that we are talking about a decrease there; but at the same time, relating the overall parking to the number of children as well.

Finally there is some change in the identification sign situation as well as it relates to these. At the present time the ordinance allows a sign, an identification sign up to 12 square feet. The proposal is to decrease that to allow a sign only 3 square feet where it is related to this type of home. The feeling is that this needs minimal identification and would be limited to 3 square feet. This type of facility could have a sign of 9 square feet if it were attached to the house. Again this is an effort to keep the signs in relation and portion to the residential characteristics and residential environment within which these facilities find themselves.

Councilman Gantt stated that is a good point in the case of a small group day care home. If it were located in an institutional district for example, would you still hold that day care home to that sign?

Mr. Bryant replied he is speaking not in relation to the sign requirements when they are located in residential districts. When they are located in these districts, either institutional, office, or business, then obviously the sign and regulations would be much less strenuous, and the normal identification signs would apply there. For example in office he believes it would allow a sign up to 50 square feet, in business 100 square feet. So the sign regulations in each one of these districts is related to the normal required for that district.

Councilman Short asked if this would make places like Sharon Towers non-conforming unless they came in and presented a plan to get themselves approved? Mr. Bryant replied when they get down to the nursing homes, yes, it would to that extent. Not non-conforming in the sense that it affects in any way their present operation but if they wanted to expand, if they wanted to add another building, then they would be subjected to the new requirements which in affect would call for conditional approval.

Councilman Short asked if they made any distinction between a retirement home, where people who have all their capabilities, but are elderly and a nursing home, like the Wesley Nursing Home, that certainly is a far different thing? Mr. Bryant replied no. The definition that is currently in the ordinance and the one that is proposed for continuation involves the terminology nursing home, rest homes and homes for the aged. So all those would be locked into a single category.

Councilman Whittington asked if they are going to take parking away from the front of these buildings? Mr. Bryant replied for new uses that would come in within the required setback. Now this does not necessarily mean that it would take away the possibility of parking in front. But for example in the R-9 single family district, the front setback requirement

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is 30 feet. This would mean there could be no parking within the front 30 feet of that lot. If the building happens to be located 50 feet or 60 feet from the road, then they would be allowed to park in the remaining 20 or 30 feet, but it would prohibit parking within the required setback area. These requirements do not become retroactive to the extent that they relate to any existing situation. This would apply only to usages that are proposed for location hereafter.

Councilman Gantt stated he had one question in relationship to the parking requirements and that is someone who wants to have a small group day care for seven or eight children and he has a 5,000 sq.ft. lot. If he cannot use that front setback, he thinks what they are doing is forcing that particular person in a normal residential set up with front, side and rear yard, to park their car somewhere in the rear of the property. He understands there is a requirement for outdoor play areas for day care centers of 100 sq.ft. per child. That might put some limitations on people.

Mr. Bryant stated to partially answer that question - take the small care facility with 10 children, chances are with the 10 children, you at most would have a couple of attendants, maybe only one, lets say two. This would mean one space for the two attendants, then one additional space for the ten children, so the parking facility for that size facility would be two parking spaces. They are permitted to have driveway parking in residential districts. In any single family district, you are dealing with conventional single family housing and most of the time the parking actually occurs in the driveway. You are permitted to have a driveway across that 30 feet and parking in that instance would be legitimate in the driveway. This is only when you get into a situation where you lay out a formal parking area, where you have to maneuver, back in and pull out and so forth. Most of the small care facilities would be provided for through that facility.

They have established the primary relationship that they propose to change and that is to take most of these uses, remove them from the use-by-right category and make them conditional within the residential characteristic environment. Nursing homes they have already touched on, the same is true here. In the residential district for single family or multi-family, the proposal is to make these uses conditional rather than use-by-right as they presently are.

Hospitals are the same way. Removing them as use-by-right in the residential districts and making them conditional. Obviously a hospital can have a terrific impact on a residential neighborhood.

The same is true of Y's - removing them as use by right and make them conditional.

Fraternal organizations. We are dealing with a situation here where only a few years ago, these were installed as special use permit process, not use by right but by special use permit in residential districts. They have found by experience that that process does not work too well. So the proposal is to make fraternal organizations full conditional use within the residential district, again requiring a public hearing procedure.

Mr. Bryant stated the final category is a new one. It is something that is defined in these regulations as half-way house situations. There have been considerable discussions over whether or not facilities which are basically designed to provide rehabilitation possibilities for people in numbers of categories such as drugs, alcoholic, mental disorders and other situations which need, on the basis of recognized treatment processes, the opportunity to adjust back in many instances into the full community service situation.

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The need is to provide places where they can be housed in sort of a, almost boarding house type of situation, a foster care situation, on a basis which would let them enjoy the benefits of residential environment, residential relationship, but under controlled conditions. At the present time, a number of these programs are going on. They are not treated at all in the zoning regulations. By interpretation of the zoning administrator, they have been allowed in residential locations on the same basis that the ordinance allows boarders. In other words if you have a house in the multi-family district, you are allowed to have four or six boarders in your home. The interpretation has been based on these conditions that these types of care facilities should be established with that limitation. However this is not the best from an administrative standpoint. They have discussed this at some length with the mental health care people and they have indicated that a desirable size is in the neighborhood of a maximum of 8, 9, or 10. So there was recognized the need to establish some type of recognition in the zoning structure for the possibility of locating this type of use in controlled residential situations.

He stated a half way house is defined as a residential home providing for shelter, living conditions for rehabilitation purposes for three or more persons. It is proposed that this be permitted as a conditional use in multi-family areas. Not permitted in single family districts, but permitted as a conditional use in residential areas as a special use permit process, in institutional areas, and as use by right in office and business locations. And this would recognize for the first time the validity of this type of use for this kind of activity and so provide for it within the zoning structure

Councilman Gantt stated he does not understand why they are eliminating the half way houses from the single family residents. Mr. Bryant stated the indications they have from the people who are proposing this primarily in the mental health care area were not really interested in going into single family areas. Their biggest reason for that was that they were concerned about moving these people into an area which can reasonably accept them and reasonably accept them as part of a neighborhood family. Their experience has been that generally in areas that are zoned for single family, and is predominately used for single family use, they are not as likely perhaps under most circumstances to be accepted. He thinks an argument could be made certainly that is you are going the conditional route, there would be that possibility. They were primarily requesting the desires of the people who approached them.

Councilman Short asked why would he want to ask a nursing home to have to obtain a permit in an institutional zone when a hospital is not required to obtain a permit. One might almost assume it might be the other way around. A hospital being a massive operation and a nursing home being somewhat smaller. Mr. Bryant stated he thinks the biggest factor here would be the opposite of what you would normally look for in these considerations. That is under some institutional location situation it might actually be a protective device for the residents of the home itself. It may be that in some institutional areas there would be uses proposed for location generally around the area that would not be that susceptible to the use itself. The institutional use is a very specialized district. As a matter of fact, there are very few uses in the institutional districts, that are uses by right. It is not a conventional district is really what he is saying and while you might compare one district to the other and find certain things true about it, he thinks institutional would be much harder. There is a specialized district and about the only usage that are uses by right in it is single family residential and two other very specialized and very detailed office like institutional type of activities. Actually this is no change, this is the way it is now.

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Speaking in opposition was Reverend Morgan Tann, 1901 Rozzells Ferry Road, Minister of Clinton Chapel Church and President of the Mecklenburg Day Care Association. Rev. Tann stated they came this afternoon to express on behalf of the membership of the Day Care Association, about 200 operators and care givers in the county, their concern about the proposed amendment to the ordinance. He stated the presentation did clear up quite a few questions they had in mind. Their concerns are not negative; they certainly recognize the fact that good ordinances are necessary to regulate neighborhoods. While they would encourage their consideration in establishing such regulations, that will not only preserve the rights of various types of residential sections, they would also like to encourage Council and the Commissioners to recognize the need for continued encouragement of certain community services. He stated they see there are several areas that might call for a bit of questioning and he is going to yield at this point to Mr. Eagle.

Mr. Bob Eagle, 1901 Rozzells Ferry Road, stated they are here to represent the Mecklenburg Day Care Association. They are really here to represent their future members. As Mr. Bryant stated this impact has greatest impact on people who plan to go into the day care business either in their homes or some organized business outside their homes. Their association would definitely agree that it is appropriate to differentiate between day care homes and day care facilities. Someone living in their home and operating a business has entirely different problems and entirely different needs and in most cases tries to provide an entirely different service than someone who is operating a facility outside their home.

A lot of what he is going to say reflects on the conditional approval of locations of day care facilities in the various zoning districts. They do have some concerns that this will cause the Council to be involved in a great number of zoning request or requests for conditional approval that perhaps may not be available on their calendar. The Planning Commission by the same token would have to devote a great deal of time to new day care facilities.

Specifically on the residential zones; they believe that the residential zone should be a permitted use for day care facilities as well as small group day care homes. To do otherwise would have the effect of stifling potential competition and they do believe that competition of any kind gives a better quality of care. Although there are over 175 day care centers in Charlotte/Mecklenburg they believe there is always the possibility for better day care facilities to come along and cause the rest of them to do a better job than they are doing. He stated in the handout that he has, they already have very restrictive lot size requirements in residential areas. For example an R-12 zoning requires approximately 12,000 sq.ft. of lot size for the first seven children and an additional 3,000 sq.ft. of lot size for each additional seven children. So you already have a lot area that they are talking about substantial sized center.

There is a notation about the hours of operation whereby new day care centers would be limited in residential zones to the hours of operation - this is both small group day care homes and day care centers - from 7 A.M. to 7 P.M. This works a tremendous hardship on those persons who need day care for their child in order to allow them to get to their job by 7 o'clock in the morning. Anyone that is on shift work 7-3, 3-11, etc., they have to be at work at 7 o'clock and if the facility is not allowed to open until 7 o'clock, they are going to have a lot of difficulty making their job on time. Anybody coming in new into that area would only be able to open at 7 o'clock, there is definitely a disadvantage.

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HEARING ON PETITION NO. 75-25 BY THE CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO CONSIDER AN AMENDMENT TO THE ZONING ORDINANCE TO ESTABLISH CONDITIONAL USE ZONING DISTRICTS WHICH WOULD REQUIRE THE USE OF SITE PLANS FOR REVIEW AND APPROVAL.

Mr. Bryant stated the 1973 session of the Legislature authorized the City Government of Charlotte, and the County Government of Mecklenburg to adopt zoning regulations which in effect would establish the possibility of requiring conditional approval or site plan approval under circumstances which are not normal to control the use of property. If a tract of land is zoned B-1, there is a list of many dozens of uses which are allowed within that district. When the property is zoned in that fashion it is possible for the property owner to make use of that property in any way that the ordinance allows in a general sense.

There has been expressed over a period of time concern that perhaps there was needed a greater degree of control under some circumstances. Basically the legislature which was passed a couple of years ago allows the governing body to establish in the context of the zoning ordinance, for each one of the use by right districts, a parallel conditional district. This in effect would be utilized in the fashion that would say when you approve zoning for that parallel conventional district you approve not only the district but you approve a specific use to which the property can be put. And there can be no departure from that permitted or that approved use by the property owner.

As an example - you have a request from someone who is interested in building a nice restaurant, a home type restaurant or converting an old house in an office area to a restaurant use. Under the present regulation that would mean that property would have to be zoned B-1 classification. When you zone that property B-1, then it automatically becomes eligible for that use, not only for the purpose of a restaurant, but also a service station, a drug store, for all the many retail types of uses allowed under B-1 classification. But if they had available to them a parallel conditional district, you could assign that parallel conditional district to that lot and the use which was proposed at the time you made the change would become binding and that would be the only use that could be made of the property unless it came back to them later for revised approval and additional consideration. Basically what is before them here is an ordinance that proposes to establish within the context of the City Zoning Regulations parallel conditional districts for each that is now described as general use districts within the ordinance. It further prescribes the methods and means whereby applications for such conditional parallel use will be applied for and considered by them. It goes into the type of information that must be supplied with the application. This involves the boundary of the property, the adjoining property lines, the names and deeds of the adjoining property owners, the area along streams that are subject to flooding, proposed use of land and structures, access to public streets. Under some circumstances, additional requirements may be requested by them. These additional requirements consist of such things as more generalized information as to the height, number of stories, size, and in special critical conditions, the location of the structures, parking and circulation plans, proposed screening, proposed number of signs and their location. These are all additional bits of information they may request if they deem it desirable in making their determination as to whether or not a specific use under specific circumstances should be approved.

It must be considered in a public hearing process. As it is a conditional use procedure, it is reviewed by Council and the Planning Commission in the normal fashion and then if approved, the uses and conditions under which it is approved becomes binding on the property situation.

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If the application is approved, the parallel conditional use district does establish that all conditions attached thereto shall be binding upon the property and also on the development. It goes further to say since the intent of this type of zoning is to provide for workable or alternate uses of property it is intended that land will be zoned in accordance with firm plans to develop. Therefore three years from the date of approval, the Planning Commission shall examine progress made to develop in accordance with the approved plans to determine if active efforts are made to so develop or proceed. If it is determined by the Planning Commission that active efforts to develop are not proceeding, a report shall be forwarded to the City Council which may recommend that action be taken to remove the conditional approval. This is an attempt to indicate to the initial components of such a proposal that it is intended this apply to firm plans to develop and if not they are subjected to the review process and later removal of the conditional approval.

Basically this is a process to establish a full range of conditional parallel districts which would offer the opportunity of a more controlled type of zoning than they now have available to them.

He stated we should not view the parallel conditional district process as an answer to all of our problems. The real problem here is that there are situations where requests for rezoning appropriately should be denied no matter how good the plan of development really is. The danger is that we might be lead along the path to the extent that if a good plan is presented then maybe we ought to automatically approve it. He thinks this is an additional tool for them to use and is not one that should be utilized indiscriminately or in all instances.

Mayor Belk asked if the zoning change is turned down, how long will it be before it can come back again? Mr. Bryant replied two years.

Councilman Harris stated he agrees with Mr. Bryant's concept about the conditional use. What he is concerned about is in the cases they have had in the last couple of years will be looking to the actual use. In other words, the actual identifiable use of the property at that time rather than the general category of this conditional zoning ordinance, such as the property on East Morehead that was going to be used - an old house was going to be used as a restaurant, we will take that as an illustration, we would be looking at that actual use at that time.

Councilman Harris asked if the supervision and cost is being considered in this? He is talking about the cost of a conditional zoning request versus the cost of a normal zoning request? Mr. Bryant asked him if he meant in terms of inspection times to see the conditions are being full-filled? Councilman Harris stated yes, he sees continuing supervision down the road. Mr. Bryant stated there is one automatic feature that is being built in at the present time to the controlled mechanism that would come into play here and he thinks would preclude an awful lot of periodic inspection and soforth. That is the fact that now there has been installed a process of permits for use - that is certificate of occupancy process. Anytime you indicate a new use on a piece of property or change the use of property, you must have a certificate of occupancy issued before you can legitimately occupy it. Every use, whether it be conditional or not, is governed by these regulations.

Councilman Harris stated he just thinks there should be a wide differential between the two types of fees required for that kind of zoning request.

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Councilman Short stated we have a business distributive zone conditional. Now apparently they are adding a business distributive zone non-conditional, so the new zone added is a non-conditional zone. Mr. Bryant stated that is not exactly right. It may sound like that, but the difference in the proposed and the existing is there are certain uses that are now allowed in the distributive business district as uses by right. And now if you wanted to, and had a situation where someone was requesting the BD zoning to make use of those particular uses and you felt that the adequate control of conditional processing was desirable even in those instances, this would make that possible.

Councilman Short asked why the Commission did not have the same kind of thinking with reference to the R-20MF zoning. He would think to insert an R-20MF non-conditional zone would be valuable? Mr. Bryant stated that may be a possibility. They did not get into the question of R-20MF because they were basically trying to install conditional controls here and that is already controlled through the conditional process. He stated they do not view this as the final situation as far as zoning districts, and zoning organization is concerned. They are well aware they are beginning now the process of total look at all zoning regulations and he thinks that sort of re-organization and that sort of input will come about as part of that process

Commissioner Tate stated this is the result of legislation that was passed in Raleigh instructing us to move in this direction. They testified against this legislation at the time, but it was passed. Also he would like to point out a little more dramatically the point Mr. Bryant just made and that is they feel this will be a temporary measure maybe for some time, but not the permanent answer to the question of conditional district because they realize the confusion. It must exist when you have a conditional district becoming conditional again.

Also in the matter of police control, this is a conditional district issued by this Council and if they do not do exactly what is said, then you can withdraw from it. Therefore he thinks there will be a great deal of interest on those requesting it to do exactly what they said and help in the matter of policing.

Councilman Whittington stated even with the reservations that Mr. Tate and Mr. Bryant make he thinks this is a good beginning. The sooner we can get into it, the better, taking into consideration what Mr. Eagle and Mr. Tann said if that is possible. That this is a good approach even though it may be temporary, temporary could be a long time.

Mr. Michael Finch, 2218 Charlotte Drive, stated on a number of occasions the Dilworth Community Development Association, whom he represents, has been in the position of opposing issues before Council, particularly changes in zoning. Tonight however, they are in support of the conditional zoning ordinance. They are also here to state their concern that they as residents of a community have direct input to the approval or rejection of the conditional zoning in their community. In recent months several opportunities for creative re-use and redevelopment or development of older properties in Dilworth has come up. Almost always, this development has been made impossible by the various zoning restrictions. If the architectural fabric of their community is to be maintained in the social fabric revitalized, they must have the flexibility of at least considering new and economically viable alternatives for older structures and in some cases vacant land.

The area most readily affected by this ordinance would be the East Boulevard Corridor, which bisects the Dilworth Community. Already good things are happening in this area and they can see much more happening.

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He stated Jim Thompson, Chairman of the East Boulevard Task Force of the Dilworth Development Association, has discussed the proposed ordinance at some length with his group and has some recommendations he would like Mr. Thompson to make to Council.

Mr. Jim Thompson stated he is the Chairman of the East Boulevard Task Force, an organization that grew out of public meetings sponsored by the Planning Task Force of the Dilworth Community Development Association this past summer. He thinks members of the East Boulevard Task Force are essentially in support of the conditional use zoning idea. What he has here is a proposal for an amendment or change in an added portion of the ordinance.

Their proposal is that in any ordinance passed by the City Council to permit conditional use zoning, provision be stated in the ordinance that a representative body of local citizens, that is from the neighborhoods, have the sanction to examine, review and approve or disapprove any project or development project. That one step would be that the neighborhoods themselves, the people who are directly affected, would have a voice, not only a voice, but a part in the decision making process. It would mean that it would be possible for them to reject that proposal which they disapprove of.

From the point of view of the neighborhoods, conditional use zoning could be an asset or a liability depending on whether citizens approve or disapprove of a proposed project. If the project is something the neighborhood would like to see, then clearly the ordinance is an asset. But if the project is something they disapprove of or object to, then the ordinance permitting conditional zoning is a real liability, no longer are they protected by their zoning. The potential conditional zoning outweighs the hazards as long as the neighborhood has some control of approval or disapproval by a local group of citizens assures that they have the power to keep out that they do not want. It gives them the voice in the determination of their own future if they want it. At the same time approval by the Planning Commission, by the City Council assures that no projects are started which contradict the professional and experienced judgement of the City.

The added restriction of the neighborhoods review of the project is not an intolerable burden on owners or developers since conditional projects are now impossible in the City, because zoning prohibits it. So no matter what the conditional requirements are, they have more latitude than they have now.

Essentially the only requirements that the Planning Commission and the City would have would be that they release in a news release, announce the proposal of the project and some meeting of the local citizenry, a meeting which would be established by the owner or developer. It puts the responsibility on the owner or the developer to call the meeting of the public. The proposal proposes that they be required to call a meeting and the proposal also requires that they would submit a copy of a plan to the neighborhood group.

It is the responsibility of the neighborhood group then to make a decision and to return their approval or disapproval to the City. Essentially, there is no addition, or very little additional red tape to the City.

Councilwoman Locke asked if they were asking for veto power? Mr. Thompson replied yes he guesses that is what it amounts to. Councilwoman Locke asked what if they have a diverse group that some want it and some do not? Mr. Thompson replied his proposal is that the local citizen body shall consist of the appropriate representative neighborhood development group, but that if there is no such group, or if its authority is disputed in the neighborhood over this issue, the local reviewing group shall grow out of the

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public meeting in the neighborhood, called by the developer or owner not less than 30 days before work on the project can begin and publicized by announcement through the Planning Commission through usual news media. The deciding group then grows out of a public meeting that was announced so that everyone who was concerned could come, then it would be the responsibility of the neighborhood to work it out. Councilwoman Locke stated that they would be usurping the Planning Commission. Mr. Thompson stated he does not think so. He believes that this is not an effort at all to usurp Council or the Planning Commission. He thinks they will rely on their professional judgement. What it does do is just give the neighborhoods themselves the opportunity to have an input.

Councilwoman Locke asked him what would happen in the Kingston Avenue situation where you have such a diverse group about closing off the street? Mr. Thompson replied that he would think that what would have to happen in that the group proposing the closure would have to call a meeting, at that meeting presumably members from both groups would be present. And that group would have the responsibility of selecting a representative body. If they could not work out some solution in thirty days, then they have lost their power to act according their proposal.

Councilman Whittington stated what the Council is required to do to protect neighbors is specified in the State Statutes - there is the 3/4 Vote provision and then there is the provision for public hearing. He would ask the City Attorney if their statutes would allow them to give the neighborhood group a veto power.

Mr. Underhill, City Attorney, stated he thinks there would be some very serious legal problems with delegating authority. He has not examined or read completely what is being proposed here, but it would be his opinion at first blow, that they probably could not do this.

Mr. Thompson stated in that case let him make a suggestion. All this is is an attempt and an outline to something that might work. He agrees in that case, a neighborhood group does not have the power to veto, but it would be possible in this case, they consider it not as veto power, but a recommendation to the Planning Commission from the neighborhoods.

Councilman Gantt stated Mr. Thompson apparently feels they do not have enough input as citizens and neighborhoods in the decisions made about planning, is that his point? Does he feel that the public hearing that would even be required on such zoning changes as the one they are talking about now is sufficient to allow them the opportunity to make their views known? Because no matter how you frame this position, it does come out that they are in fact talking about veto power for neighborhood groups that are not clearly defined. Dilworth may be a unique situation, what happens in Northeast Charlotte, where there may be no neighborhood group, that might be formed for that purpose. He doubts that a meeting 30 days before the developer puts the bulldozer out at the site is going to be sufficient to have any kind of group formulated to make an intelligent decision like that. He is wondering if what he is really not saying here is that Council ought to be looking at a method that allows neighborhoods to have greater input into the decision they are going to make short of veto. Mr. Thompson replied yes, he would go along with that. He thinks that is exactly the nature of his proposal. He was trying to suggest one way that might work. He stated he thinks because there has been the growth of neighborhood groups in the last couple of years, like the Dilworth Development Association, it would be smart to use the assets of those groups where they exist. He thinks the Dilworth Group might have the manpower, professional manpower and some experience and some insight to be able to make in 30 days an intelligent decision, one that would be useful to the Planning Commission.

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Councilman Gantt stated he thinks when you build something into a structural situation such as an ordinance, you have to make sure that this is applied over the entire city. Mr. Thompson stated he thinks it would be useful for neighborhood groups to have access to the plans of a proposed project as the Planning Commission has the plans. He thinks it would be useful if there was a mechanism by which neighborhood groups could review the actual plans. If they could work from this proposal or from a different proposal they might have to form another mechanism by which the neighborhoods could have some real input into determining the future of their neighborhoods. He would personally be very happy to work and spend time and so would the East Boulevard Task Force.

Councilwoman Locke asked Mr. Bryant, if they have a person that works with neighborhood groups on things that are coming up in their neighborhoods? Mr. Bryant replied they do; they have a member of the staff who has the responsibility to work with neighborhood groups and normally anytime a zoning request comes up in an area where there is an organized group operating in that area, he does contact them and let them know there is a zoning consideration.

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

HEARING ON PETITION NO. 75-26 BY THE TRUSTEES OF THE NEW HOPE BAPTIST CHURCH FOR A CHANGE IN ZONING FROM B-1SCD TO R-9 AND B-1 OF AN IRREGULARLY SHAPED TRACT OF LAND AT THE NORTHWEST CORNER OF THE INTERSECTION OF IDLEWILD ROAD, AND ABOUT 520 FEET ON IDLEWILD ROAD NORTH.

The scheduled hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is a request to remove a business classification and replace it with a residential classification. A number of years ago a B-1SCD classification was established at the intersection of Idlewild Road and Idlewild Road North for the purpose of building a small neighborhood shopping center and it consisted of about four and half acres of land. A plan of development was submitted and it was proposed to utilize it for business purposes. Since that time a small portion of it was developed with a convenience food store, but the remainder of the property is vacant.

He stated recently the vacant portion of the property was purchased by the New Hope Baptist Church which has an existing facility on the adjoining property. The Church proposes to build a new plant on the property. Since this was approved for B-1SCD it cannot at the present time be used for church purposes, and can only be used in accordance with the plan that was approved. This request has been filed primarily by New Hope Baptist Church to reconsider the rezoning of most of the property to a residential classification to allow the property to be developed for church purposes. Parallel to that and part of the consideration a small portion of the intersection has now been developed with the convenience store; that is a business use and should retain a business classification; it is too small by itself to be approved for B-1SCD and the request is to rezone the majority of the property to R-9 with the convenience store site rezoned to B-1.

Speaking for the petition was Mr. Wade Collins, Trustee with New Hope Baptist Church. He stated they would like to build a new sanctuary for the church as they have really grown; they are in a building at present that has become an old building. They would like to build a new church sanctuary there for the people. By the growth of the church it is needed.

No opposition was expressed to the proposed change in zoning.

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

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HEARING ON PETITION NO. 75-27 BY SALLIE M. REECE HAMILTON FOR A CHANGE IN ZONING FROM O-6 TO B-1 OF ABOUT 0.72 ACRES OF LAND ON THE SOUTHEAST CORNER OF THE INTERSECTION OF MONROE ROAD AND COMMODORE STREET, FRONTING 140.04 FEET ON MONROE ROAD.

The public hearing was held on the subject petition.

The Assistant Planning Director stated this request for rezoning constitutes a proposal to change from O-6 classification to B-1 classification, two lots located on the southerly side of Monroe Road. The lots are actually at the intersection of Monroe Road and Commodore Street. The lots in question are occupied at the present time by single family residential structures as is most of the block in which they are located.

He stated there is a beauty shop and an office structure, and other than that the entire block is residential. Across Monroe Road on the northside there is a pattern of single family residential occupancies.

He stated across Commodore Street from the lots in question there is the beginning of basically a non-residential pattern; from Commodore Street westward along Monroe Road there is a non-residential pattern. Behind the property on Doris Avenue, is a solid single family residential pattern.

The zoning in the area is a predominance of O-6 office pattern along the southerly side of Monroe Road, extending from a point just west of Commodore on easterly throughout the block all the way to Rossmore and then further east from that point.

Across on the north side of Monroe Road is a predominance of R-9MF multifamily. West of Commodore is a combination of office zoning and the beginning of a rather large business zoning strip going westerly along Monroe Road. To the rear there is R-9 single family zoning. The subject property is bounded on two sides by office zoning, single family to the rear, and a combination of office and multi-family across Monroe Road in front of it.

Mr. Pickney Herbert, Attorney, representing Mrs. Sallie M. Reece Hamilton and Mr. Wade N. Pigg the present owners of the property stated the perspective purchaser, Gate Petroleum Company is represented by Mr. Bill Rhodes. Gate Petroleum Company is a Florida Corporation doing business in six southeastern states with approximately 65 stations. They have one station here in Charlotte on Tuckaseegee Road and this would be the second one. They are in the business of selling petroleum products. This station would have ordinary pumps and self service pumps but would have no service bay, and there would be no mechanical work performed. He passed around pictures of a station in Jacksonville, Florida. He stated the station constructed on this property would be nearly identical, except that one shows a small convenience store in the back, which would not be on this property.

If this petition is granted, Gate Petroleum is confident that upon acquiring the title to the property, they will obtain and bring to this location and to the City of Charlotte, an additional 150,000 gallons of federally allocated gasoline per month.

He stated that 150,000 gallons a month means, 15 gallons of gas per month for 10,000 automobiles for the citizens of the City of Charlotte. As they can see from the pictures, this station would be attractive, the street will be upgraded, it will be complimentary to the neighborhood and of course the tax base will be increased, because the cost of this station will be in excess of \$85,000.

No opposition was expressed to the proposed change in zoning.

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

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INTERIM REPORT ON FOURTH WARD AREA DEVELOPMENT PLAN.

Mr. McIntyre, Planning Director, stated Council recently received a resolution from the Planning Commission, and it is the substance of that resolution he would like to talk about.

The Planning Commission as of September 2 approved a development plan for a portion of the Fourth Ward area. An important part of that plan of which they will be asking immediate consideration is action toward the acquisition of some of the park land proposed in the area.

He stated the portion being dealt with is the portion that extends from Church Street, across Poplar and Pine Streets and stops short of Graham Street. The cross streets through the Fourth Ward area are Sixth, Seventh, Eighth, Ninth and Tenth Streets.

The proposal is to devise a very broad range of density in the area to allow a very broad range of housing heights. One of the aspirations and objectives of the plan is to have a diversity of housing and housing types to accommodate the diversity of population and styles. The density range goes from single family development up to very high density high rise apartment developments. The lower densities proposed in the plan are internal to the neighborhood, and the higher density - high rise apartments multi-family development would be recommended around the edge of the area, mostly associated with streets of high traffic carrying capacity. There will be some areas of mixed use. At present there are in existence mixed uses along Church Street, between Ninth and Seventh Streets. Another recent non-residential development in the area is the Salvation Army Complex built by the Salvation Army a short time ago.

Mr. McIntyre stated they will propose changes in the street pattern. At present all the streets moving through the area move from one side of the area to another. The plan proposes that some of the streets be closed. On Ninth Street, between Pine and Poplar Streets, will be closed. This will keep traffic out of the area and make it free of traffic. Another objective is to put particular emphasis on making this an attractive area for pedestrians, so that pedestrians can move throughout the area without conflict with heavy volumes of traffic. The other aspects of the pedestrian circulation is indicated where they propose pedestrian system to be accomplished by private development that will take place in the area. Another area would be the proposed park which will extend from Eighth Street down through the area, across Seventh and to Poplar Street.

He stated the park matter is one that is of particular interest to us at this time. In the light of what appears to be a potential opportunity to develop a better park system than was originally started with in the first draft of the plan. The first draft indicated several smaller parks. The Planning Commission with Friends of Fourth Ward and the UNCC supported a charett to bring in outside help to contribute some of their thinking about what would be a desirable plan for the Fourth Ward Area. In addition, the Planning Commission subsequent to the charett held a public hearing, and received many expressions of interest and various ideas from various people in the community - organizations, property owners, investors and others. One idea that came from the charett activity and the public hearing was a recommendation to modify the plan to the effect that it would be a better plan with one larger, major park instead of several small parks, with emphasis on the park land providing a very strong element of access to pedestrian circulation out toward the square. To the Planning Commission, this appeared to be a very valid recommendation and idea.

Mr. McIntyre stated they begin to explore this idea and found one obvious problem. That is in the block between Seventh Street and Eighth Street, and Poplar and Pine Streets is a block of property owned by the Salvation Army. It has been their intent to develop this with housing for the

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elderly, and they intended to use the entire block. He stated from the point of view of staff they felt it worthwhile to explore with the Salvation Army the possibility of a modification in their plan which would allow a portion of the block to become a part of a portion of the park. The conversations with representatives of the Board of the Salvation Army indicated an open minded attitude on their part towards modifying their development proposal to provide for the park if there were an affirmative interest on the part of the City Council to provide a piece of land for park purposes for the system he has just explained.

The Planning Commission has asked Council to consider and take affirmative action in expressing interest in the use of this land for park purposes and its acquisition by the City.

Councilman Gantt stated there were identified a number of old houses that people wanted to preserve. He asked where those houses are located? Mr. McIntyre pointed out the area where the preserved reconditioned houses would be located; they would be clustered together in an area where it will begin to create a kind of atmosphere of urban environment like those houses were found in their original state. A good many of them are in the area, and others will be moved in.

Councilman Short asked if this would be a park and recreation park, or would there be other administration? Mr. McIntyre replied the Planning Commission has not made any effort to determine who would administer the park. You would not look upon this park as an active recreational park - one developed with ball diamonds and swimming pools. Their view is this will be more of a scenic park.

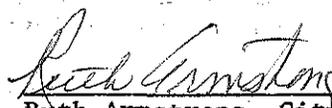
Councilman Short moved that Council ask the City Manager as reasonably quickly as he can to comment and suggest possibilities for financing such a purchase of park land. The motion was seconded by Councilwoman Locke.

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

Councilman Whittington stated this is an opportunity for us to move with the Salvation Army and do the things we started out to do in Fourth Ward. He hopes we will not let any grass grow under our feet, and move post haste to acquire this property, and get this project under way.

ADJOURNMENT.

Upon motion of Councilman Harris, seconded by Councilman Short, and unanimously carried, the meeting adjourned.


Ruth Armstrong, City Clerk