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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber of the City Hall, on Wednesday, September 28, 1955, at 4 o'clock p.m., with Mayor pro tem Smith presiding, and Councilmen Albea, Baxter, Dellinger and Wilkinson being present.

Absent: Mayor Van Every and Council members Brown and Evans.

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Wilkinson, seconded by Councilman Dellinger, and unanimously carried, the Minutes of the last meeting on September 21st were approved as submitted.

ESTIMATE FOR PAINTING DETECTIVE OFFICES AND RECORDER'S COURT ROOM REQUESTED.

Councilman Baxter called attention to the fact that while the Police Department is not a revenue producing department, the fines have increased to the extent that during the month of September alone over \$30,000.00 in fines were collected. He suggested that the City Manager be requested to secure an estimate on painting the Detective Offices and a separate estimate on painting the Recorder's Court Room. The motion was seconded by Councilman Wilkinson, and unanimously carried.

SUBDIVISION PLATS APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, Plats of Portion of Harvey M. Grier Estate Subdivision, and of Portion of Eastway Park Subdivision, were approved, as recommended by the Planning Commission.

SALE OF AIRPORT BUILDINGS TO THE FULL GOSPEL CHURCH AUTHORIZED.

Councilman Dellinger moved that the offer of The Full Gospel Church to purchase two buildings at Douglas Municipal Airport, at a price of \$200.00 per building be accepted. The motion was seconded by Councilman Wilkinson, and unanimously carried.

STREETS TAKEN OVER FOR MAINTENANCE.

Upon motion of Councilman Wilkinson, seconded by Councilman Albea, and unanimously carried, the following streets were taken over for maintenance:

- (a) Webster Place, from Trent Street to Annline Avenue,
- (b) Moultrie Street, from Tyson Street to Webster Place.
- (c) Annline Avenue, from Tyson Street to Webster Place.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Motion was made by Councilman Dellinger, seconded by Councilman Baxter, and unanimously carried, authorizing the construction of driveway entrances at the following locations:

- (a) One 10-ft. driveway at 2429-31 The Plaza.
- (b) Two 35-ft. driveways at 1006 Woodward Avenue.

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CONTRACTS FOR THE CONSTRUCTION OF WATER MAINS AUTHORIZED.

Upon motion of Councilman Wilkinson, seconded by Councilman Dellinger, and unanimously carried, the following contracts were authorized for the construction of water mains:

- (a) Contract with Southern Real Estate & Insurance Company for the construction of 2,210-ft. of 12-inch mains in Franklin Avenue Extension, outside the city, at an estimated cost of \$16,900.00, to serve industrial property. All costs to be borne by the applicant, who will own the mains until the territory is annexed to the City.
- (b) Supplementary contract (to contract dated May 21, 1952) with Triangle Development & Sales Company, for the construction of 2,435-ft. of additional mains in Nations Ford Homes Development, outside the city, at an estimated cost of \$3,525.00, to serve residential property. All costs to be borne by the applicant, who will dedicate the mains to the City upon the acceptance by the City for maintenance and operation.
- (c) Supplementary contract (to contract dated April 26, 1955) with Ervin Construction Company, Inc., for the construction of 8,755-ft. of mains and 7 fire hydrants, in Westerly Hills Subdivision, outside the city, at an estimated cost of \$22,000.00. All costs to be borne by the applicant, who will own the mains until the territory is taken into the City.

CONSTRUCTION OF SANITARY SEWERS IN SEIGLE STREET APPROVED.

Councilman Albea moved approval of the construction of 168-ft. of 8-inch sanitary sewers in Seigle Street, at an estimated cost of \$980.00, to serve residential property, with all costs to be borne by the City. The motion was seconded by Councilman Baxter, and unanimously carried.

CONTRACT AWARDED CROWDER CONSTRUCTION COMPANY FOR STREET IMPROVEMENTS ON INDEPENDENCE BOULEVARD.

Upon motion of Councilman Wilkinson, seconded by Councilman Baxter, and unanimously carried, contract was awarded the low bidder, Crowder Construction Company, for street improvements on Independence Boulevard Project, as specified, on a unit price basis, representing a total price of \$6,445.00.

CONTRACTS AWARDED BADGER METER MFG. COMPANY FOR WATER METERS.

Motion was made by Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, awarding contract to Badger Meter Manufacturing Company, for 1,500, 5/8" and 100, 1" Displacement Type Cold Water Meters, as specified, on a unit price basis, representing a total net delivered price of \$39,373.00.

CONTRACT AWARDED THE FORD METER BOX COMPANY, INC. FOR METER YOKES.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, contract was awarded the Ford Meter Box Company, Inc., for 1,500 No. 209-U and 60 No. 104 Meter Yokes, as specified, on a unit price basis, representing a total net delivered price of \$7,078.20.

BIDS ON SIRENS FOR CIVIL DEFENSE REJECTED AND RE-ADVERTISEMENT FOR BIDS AUTHORIZED.

Councilman Albea moved that all bids received on September 12th, on Sirens for Civil Defense, be rejected, as recommended by the City Manager, and the re-advertisement for bids be authorized. The motion was seconded by Councilman Dellinger, and unanimously carried.

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SEMI-FINAL ESTIMATE OF V. B. HIGGINS COMPANY CONTRACT FOR GENERAL CONSTRUCTION OF SUGAW CREEK SEWAGE TREATMENT PLANT AUTHORIZED PAID.

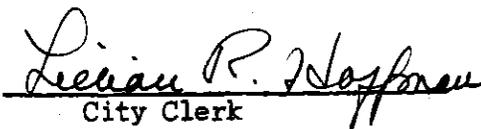
Motion was made by Councilman Wilkinson, seconded by Councilman Dellinger, and unanimously carried, authorizing payment of the Semi-final Estimate of V. B. Higgins Company Contract for the General Construction of Sugaw Creek Sewage Treatment Plant, in the amount of \$206,872.82, as recommended by the City Manager.

APPOINTMENT OF JOSEPH C. TRAVIS AS VICE-RECORDER.

Councilman Dellinger stated that a few weeks ago Mr. Wallace S. Osborne resigned as Vice Recorder and he would like to be relieved of the duties of this office. He therefore moved the appointment of Mr. Joseph C. Travis as Vice Recorder. The motion was seconded by Councilman Wilkinson, and unanimously carried.

ADJOURNMENT.

Upon motion of Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, the meeting was adjourned until 7:30 o'clock p.m., September 28th, in the Criminal Court Room, Mecklenburg County Court House.


City Clerk

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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 Wednesday, September 28, 1955, at 7:30 o'clock p.m., with Mayor pro tem Smith presiding, and Councilmen Albea, Baxter, Dellinger and Wilkinson being present.

Absent: Mayor Van Every and Council members Brown and Evans.

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

PURPOSE OF MEETING ANNOUNCED.

Mayor pro tem Smith announced that the purpose of the meeting is to hold a public hearing on the proposed zoning ordinance for the Charlotte Perimeter Area, as provided for in S.B. 105 of the 1955 Session of the General Assembly.

He announced that an Agenda has been prepared of the thirty requests from citizens to be heard. That if time does not permit everyone being heard tonight, then the Hearing will be continued to a later date. He also stated that no decisions will be made by the Council tonight, and will be deferred so that the requests may be studied by the Councilmen.

CHANGE IN PROPOSED CLASSIFICATION OF PROPERTY AT THE INTERSECTION OF PLAZA ROAD, PLAZA ROAD EXTENSION, HICKORY GROVE AND NEWELL ROADS, REQUESTED BY GRAHAM TAYLOR HEIRS, R. D. BUNTING, VANCE CARPENTER, H. D. BARTLETT AND J. L. NEWELL, PROPERTY OWNERS, FROM RESIDENCE TO BUSINESS-1, AND OBJECTIONS EXPRESSED THERETO BY C. W. BIGGERS.

At the invitation of Mayor pro tem Smith for a discussion of the petitions of owners of Graham Taylor property, R. D. Bunting, Vance Carpenter, H. D. Bartlett and J. L. Newell, that the proposed classification of their property at the intersection of Plaza Road, Plaza Road Extension, Hickory Grove and Newell Road, be changed from RESIDENCE to BUSINESS-1. Mr. C. W. Biggers, Route #8, Hickory Grove section, stated he objects to the zoning of the area as BUSINESS, and wishes the Council to approve the RESIDENCE classification. That he purchased the property some ten years ago and has developed it so that he may operate a farm there when he retires, which he will be unable to do if it is developed as a business area.

Mr. J. W. Alexander, Attorney representing the owners of the Graham Taylor property, consisting of 8 acres, located at the northerly intersection of Plaza Road and Plaza Road Extension, Mallard Creek Township, fronting 400-ft. on the northeast side of Plaza Road and 500-ft. on the northwest side of Plaza Road Extension, stated he does not believe that Mr. Biggers refers to their petition, as the Biggers property is located somewhat distant from the property in question. Mr. Alexander stated that the owners of the Graham Taylor property request that all of it be zoned as BUSINESS-1. He advised that this is a busy intersection and carries a heavy traffic load, which would be detrimental to the use of the property as residential. That the property is bounded on the northwest along its entire border by the property of Mr. John Newell, which is used in his cement contracting business; that in the northeast corner of the intersection there is located the property of Mr. Harold Bartlett, used in his business of selling sand for construction purposes; that opposite to the property in question on the south side of Plaza Road Extension is located the property of Mr. G. R. Bradshaw, a portion of which is used for a mercantile purpose and the remaining portion for residential purposes. The property on the south side of Plaza Road Extension, consisting of the property of R. D. Bunting, Vance Carpenter, H. D. Bartlett and J. L. Newell, which is used for residential purposes, is located on the south side of Plaza Road Extension.

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bounded by property already used for business purposes. Mr. Alexander stated that in view of the above, the property is most unsuitable for residential purposes, and the zoning of same as RESIDENCE will greatly decrease its value and constitute a prohibition against the use of the property for any purpose.

Mr. Thomas Ruff, Attorney representing Mr. R. D. Bunting, owner of four acres, situated as outlined by Mr. Alexander, requested that it be given a BUSINESS-1 classification. That the property is not suitable for residential use, because of the heavily traveled arterial routes at this intersection; the existence of a mercantile establishment across the intersection; the use of adjoining properties as a Cement Contracting Business and the sale and delivery of Sand business; that Mr. Bunting's property is sufficient in size and area to develop a business, including off-street parking. He, therefore, requested that a BUSINESS-1 classification of the property be adopted. He presented petitions signed by Mr. Carpenter, Mr. Newell and Mr. Bartlett, who ask that their property be zoned as BUSINESS-1.

CHANGE IN PROPOSED CLASSIFICATION OF LOTS 13, 14 and 15, BLOCK 6, AT NORTH-EAST CORNER OF IRVIN STREET, GREEN BOULEVARD AND ASHLEY ROAD, FROM RESIDENCE TO BUSINESS, REQUESTED BY ASHLEY PARK GROCERY STORE, AND PETITIONED FOR BY 150 RESIDENTS OF AREA.

Mr. Kermit Caldwell, Attorney, representing Ashley Park Grocery, Inc., owners of Lots 13, 14 and 15 in Block 6, at the northeastern corner of Irvin Street, Green Boulevard and Ashley Road, on which their Grocery Store and a small Laundry are located, requested that the proposed classification of the property as RESIDENCE-1 be changed to BUSINESS; he advised that the area across the street is proposed as a RURAL classification. Mr. Caldwell stated that this is the only business within 1/8 of a mile from Wilkinson Boulevard, and the Grocery Store is the only one within a mile of the residents of the area. That throughout Charlotte small shopping centers are permitted in residential areas because of their great convenience to the residents, and they feel this community is entitled to the same consideration. That as the store and laundry are already located in the area, the property will not be injured by the development of a business area. Therefore, they request that Lots 13, 14 and 15 be classified for BUSINESS purpose.

Mr. John D. Shaw, City Attorney, asked if the property is zoned for BUSINESS, what will be done about off-street parking? Mr. Caldwell replied they are planning for an off-street parking area, however there are sufficient side streets in the area to take care of this question, and it is no problem.

No objections to the requested BUSINESS zoning was expressed.

CHANGE IN PROPOSED CLASSIFICATION OF (1) SMALL TRACT OF LAND LOCATED ON WEST SIDE OF YORK ROAD AT ITS INTERSECTION WITH FREELAND LANE, REQUESTED FROM RESIDENCE TO BUSINESS, AND (2) CHANGE IN PROPOSED CLASSIFICATION OF PROPERTY ON OLD PINEVILLE ROAD NEAR DIAMOND POINT, REQUESTED FROM RESIDENCE TO INDUSTRIAL.

Mr. Joe Grier, Attorney representing Mr. Clarkson Jones and his corporation, Realty Investment & Building Company, stated that in 1946 Mr. Clarkson Jones purchased land on York Road across from Clanton Presbyterian Church and developed York Road Park; that the plans were submitted to the F.H.A. and the Planning Commission, without restrictions, except three lots were designated for retail business. That business has been erected on one of these lots. That the section around the area in question is residential. That the Planning Commission is proposing a RESIDENCE classification on these two lots, for which they are not suited. Mr. Grier submitted letters from Mr. Fred Wiggins, who is developing the residential area and from N. G. Spier, Inc., Mortgage Lender on this residential property, both of whom say there should be a Business area within the section, and to which they have no objection. Also, Mr. Grier stated he has petitions from residents of the area joining in their request for a BUSINESS classification of these lots. He asked that the Council view the location before making their decision.

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Mr. Grier then presented their second request, which is that the property owned by Mr. Jones on Old Pineville Road, near Diamond Point, be zoned INDUSTRIAL instead of RESIDENTIAL as proposed by the Planning Commission. He stated also there is a tract at the rear of the property of Mr. Jones, which is owned by Mr. Davis, who wishes his zoned as INDUSTRIAL. He advised there is colored property adjacent, which would render it undesirable for white residential purposes. Mr. Grier advised he is filing letters with the City supporting their request for the INDUSTRIAL classification.

No objections were expressed to the requested change in zoning.

CHANGE IN PROPOSED CLASSIFICATION OF FIVE ACRES OF LAND ON YORK ROAD AND FREELAND DRIVE, FROM RESIDENCE TO BUSINESS, REQUESTED BY M. C. KING, AND OBJECTED TO BY HARVEY HUNTER.

Mr. Harvey Hunter spoke in opposition to the petition of Mr. M. C. King for a requested change in the proposed classification of five acres of land on York Road and Freeland Drive from RESIDENCE to BUSINESS. Mr. Hunter stated he spoke in opposition to this before the County Commissioners. That the property in question is directly across from Clanton Presbyterian Church and the people of the Church do not wish it converted to Business. That a number of petitions have been filed in opposition to such change.

Mr. M. C. King, petitioner, stated that his reason for requesting the change is that a large business is being erected down York Road, and also there is a business across from his property. He stated his grandfather gave the land for Clanton Presbyterian Church and he certainly has no intention of doing anything that would hurt the Church.

CHANGE IN PROPOSED CLASSIFICATION OF TWO TRACTS OF LAND ON THE EASTERLY SIDE OF PINEVILLE ROAD, FROM RURAL TO INDUSTRIAL REQUESTED BY MRS. EDNA S. REA AND TAYLOR CONSTRUCTION COMPANY.

No opposition was expressed to the request of Mr. Richard E. Wardlow, Attorney in behalf of Mrs. Edna S. Rea and Taylor Construction Company, for a change in the proposed classification of two tracts of land located on the easterly side of Pineville Road, from RURAL to INDUSTRIAL.

Mr. Wardlow stated that in 1952 Mrs. Rea and Taylor Construction Company acquired this land, consisting of 77.97 acres, on Pineville Road for developing it industrially. That 500 feet on the east side of Pineville Road has already been proposed by the Planning Commission as INDUSTRIAL and 9.6 acres of their property lies within that area which was acquired in 1954 to give an outlet from their main tract onto Highway #21. That in the early part of 1955 in furthering the development of the property, they began negotiations with the N. C. Highway Department and the Southern Railway Company toward getting a spur track from the main line over onto the main property. Therefore, in view of these facts and also that they are committed to sell 8.21 acres of the larger tract for business purposes, and because Pineville Road is developing industrially and not residentially, it would appear manifestly unjust to deny an INDUSTRIAL classification on the entire 100 acres of property.

CHANGE IN PROPOSED CLASSIFICATION OF NORFOLK-SOUTHERN RAILROAD COMPANY RIGHT-OF-WAY FOR A DISTANCE OF TWO AND ONE-HALF MILES BEYOND CITY LIMITS, FROM RURAL TO INDUSTRIAL, REQUESTED BY RAILROAD ATTORNEY.

No opposition was expressed to the request of Mr. John Robinson, Attorney representing the Norfolk-Southern Railroad Company, that the proposed classification of the right-of-way of the Railroad Company for a distance of 2 1/2 miles beyond the city limits of Charlotte, from Rural to INDUSTRIAL. Mr. Robinson stated that similar requests have been filed by owners of property adjacent to right-of-way of the Railroad Company; namely, Mr. John K. Civil, Mr. W. T. Minor, Jr., Mr. C. D. Spangler and Mr. J. Arthur Eagle. Mr. Robinson stated further that the RURAL classification would deprive these property owners of the right to develop their property and at the same time would deprive the Railroad Company of revenue by way of freight going to and from industries and commercial plants erected by these property owners.

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REQUEST OF C. D. SPANGLER CONSTRUCTION COMPANY FILED AT HEARING FOR INDUSTRIAL CLASSIFICATION OF 65 ACRES OF LAND ON SHAMROCK DRIVE, ADJACENT TO NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY.

The written request of C. D. Spangler Construction Company that 65 acres of land on Shamrock Drive in Crab Orchard Township, through which the Norfolk-Southern Railroad runs or to which it is adjacent, be given an INDUSTRIAL classification, was filed at the Hearing.

CHANGE IN PROPOSED CLASSIFICATION OF 94.65 ACRES OF PROPERTY NEAR HICKORY GROVE BORDERING ON NORFOLK-SOUTHERN RAILROAD RIGHT-OF-WAY, FROM RURAL TO INDUSTRIAL, REQUESTED BY J. ARTHUR EAGLE.

Mr. L. L. Caudle, Attorney, representing Mr. and Mrs. J. Arthur Eagle, advised their property consisting of 95.65 acres is split open by the Norfolk-Southern Railroad tracks and is unsuited for residential purposes; therefore, they request that the proposed classification as a RURAL zone be changed to INDUSTRIAL. He stated that Mr. John K. Civil and C. D. Spangler Construction Company, who own property similarly located wish the classification of their property changed to INDUSTRIAL. Mr. Caudle stated that property suitable for industrial development is becoming more scarce every day, and if Charlotte is to grow then land must be provided for the construction of manufacturing plants. He stated all of the property referred to is farm land, with no paved road into it and too near the railroad to be desirable for residential purposes. He stated further that if the RURAL classification is approved, the owners can, of course, later go before the Zoning Commission and get it changed to Industrial if a purchaser can be found, but that is the slow process, and it is more reasonable to zone it INDUSTRIAL now.

No opposition was expressed to the request.

CHANGE IN PROPOSED CLASSIFICATION OF 53-ACRE TRACT OF LAND IN PAW CREEK TOWNSHIP FRONTING ON HIGHWAY #16 ON NORTHERLY AND SOUTHERLY SIDES, AND ON THE SEABOARD AIRLINE RAILWAY, FROM RESIDENTIAL TO INDUSTRIAL, REQUESTED BY R. P. CHAPMAN ESTATE.

Mr. Carl Horn, Attorney, representing the heirs of the R. P. Chapman Estate, requested that the proposed classification of the 53-acre tract of land in Paw Creek Township, fronting N. C. Highway #16 on both the northerly and southerly sides and the Seaboard Airline Railway tracks, be changed from RESIDENTIAL or RURAL to INDUSTRIAL. He advised that the property is also across from McClure Lumber Company and Homestead Mills.

Mr. Horn stated that the Planning Commission in zoning the property has split the lot so that the front two-thirds is INDUSTRIAL and the rear one-third is RURAL; that the lot is about 2000-ft. deep. He asked that the Council move the dividing line back about 1000 feet north, so that it will coincide with the boundary line of the property. He stated they understand that the Duke Power Company power line was used as a dividing line. Mr. Horn advised that it is illogical to divide the property in this manner, and no where in Charlotte is there an Industrial area on one side and Residential area on the other side of any property, and no one would be interested in constructing residential property on a highway with industry across from it. He stated further if the line is moved back 1000 feet, the folks on the Plank Road will have a buffer area; that they are only asking that the line be moved back to the rear of the property line of Plank Road property. He stated there is no provision in any zoning law that will give Mr. Chapman any relief; it must come from the City Council.

No opposition to the request was made.

CHANGE IN PROPOSED CLASSIFICATION OF PORTION OF HIS PROPERTY ON NORTH SIDE OF DIXIE ROAD, FROM RURAL TO INDUSTRIAL, REQUESTED BY BENJAMIN O. HOOD.

Mr. Benjamin O. Hood, 2211 Radcliff Road, requested a change in the proposed classification of his property, on the north side of the new Dixie Road, near the Southern Railway right-of-way, from RURAL to INDUSTRIAL. He stated that his property consists of 117 acres and he is requesting that

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34 acres be zoned INDUSTRIAL. He stated further that he now has a sale for the property at this time for industrial use, and will be unable to make the sale if it is classified otherwise.

No opposition was expressed against the request.

CHANGE IN PROPOSED CLASSIFICATION OF THREE AND ONE-HALF ACRES OF LAND AT NORTHWEST CORNER OF SHARON-AMITY ROAD AND INDEPENDENCE BOULEVARD, FROM RESIDENCE TO BUSINESS, REQUESTED BY PAUL W. NORMAN.

Mr. Basil M. Boyd, Attorney representing Mr. Paul W. Norman, requested that the proposed classification of the 3 1/2 acres of land at the northwest corner of Sharon-Amity Road and Independence Boulevard, be changed from RESIDENCE to BUSINESS. He called attention to the fact that most of the property beyond the Auditorium-Coliseum and city limits is vacant property and will never be a residential area on Independence Boulevard, as it is not suitable for residential use. Mr. Boyd stated there should be no opposition whatsoever to the requested change in zoning, and the owners of adjoining property on Unaka Avenue and Amity Roads both favor the property being zoned as Business. That it would be a confiscation of this property to zone it as Residence. He asked that the Council look at the property.

No opposition was expressed to the requested zoning.

CHANGE IN PROPOSED CLASSIFICATION OF FIVE ACRES OF LAND ON HOSKINS AVENUE AND HOVIS CIRCLE, FROM RESIDENCE TO BUSINESS REQUESTED BY A. G. BROWN, 100 HOVIS CIRCLE.

Mr. A. G. Brown, 100 Hovis Circle, requested that the proposed classification of 5 acres of land owned by him on Hoskins Avenue and Hovis Circle, be changed from RESIDENCE to BUSINESS. He advised that he plans to construct a Service Station and Store on the property, which is near the P & N Railway tracks. He stated further that he knows there is no opposition to the change, and believes he could secure the names of 500 petitioners approving the Business zone.

There was no opposition expressed to the request.

CHANGE IN PROPOSED CLASSIFICATION OF LOT ON TODDVILLE ROAD, FROM RURAL TO BUSINESS REQUESTED BY A. G. DEYTON.

Mr. A. G. Deyton, requested that the proposed classification of his lot on Toddville Road, be changed from RURAL to BUSINESS. He stated that he purchased the lot in 1953 at public auction and it was the only lot sold that day for business purposes. That he constructed a shop on the property which is the Deyton Welding & Sheet Metal Company. That in July he requested the Zoning Commission to zone the property as Industrial or Business, which they denied. That he will be unable to add to the shop if the property is zoned as RURAL.

No opposition was expressed to the request.

CHANGE IN PROPOSED CLASSIFICATION OF PROPERTY OF C. J. CLINE ON EASTERLY SIDE OF AMITY ROAD, OFF CENTRAL AVENUE, FROM BUSINESS-1 TO RESIDENCE, REQUESTED BY RAY OWENS AND PETITION FOR CHANGE BEARING THIRTY SIGNATURES OF RESIDENTS OF AREA FILED.

Mr. C. J. Cline requested that the proposed BUSINESS classification of his property on the easterly side of Amity Road off Central Avenue be approved by the City Council. He advised that he purchased the tract of land three years ago for business purposes. That he has a building started on the property to be used as a Drive-in Restaurant, and he did not know there were any objections to the use of the property in this manner.

Mr. Ray Owens, resident of the area, presented a petition by thirty residents of the Amity Road area, which was circulated at the time the...

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and Mr. Cline's property was zoned by them before the petition was completed. He stated they are proud of their community and feel that permitting a business area 1000 feet down Amity Road is unfair to the residents. That it is a nice, quiet, church-going community and they certainly do not want any beer-joints in the neighborhood. That in reply to Mr. Cline's statement that he did not know there were objections to the Drive-In Restaurant, no objections were expressed as the residents only recently learned what he is building. He asked that the Council go out and see the construction and they will see that it can only be a honky-tonk.

Mr. Cline stated he would not have a beer or whiskey license for the Restaurant, and it will be a high-class restaurant on the order of Howard-Johnson Restaurants.

CHANGE IN PROPOSED CLASSIFICATION OF LOTS AT 4421 AND 4431 CENTRAL AVENUE EXTENSION, IN FRONT OF EVERGREEN CEMETERY, FROM RESIDENCE TO BUSINESS, REQUESTED BY J. R. PURSER AND H. F. ALEXANDER, OWNERS.

Mr. J. R. Purser, 4421 Central Avenue Extension and Mr. H. F. Alexander, 4431 Central Avenue Extension, requested that the proposed classification of their properties be changed from RESIDENCE to BUSINESS. They advised that Evergreen Cemetery is in front of their property and a Drive-In Theatre on one side, and they request that the other side of the property be zoned as BUSINESS, the same as other property in the area. That all of the property from Windsor Drive back towards Charlotte is zoned as Business. Mr. Purser stated he would like to dispose of his residence on the property and move to a quieter location.

No objections to the request were expressed.

CHANGE IN PROPOSED CLASSIFICATION OF LOTS ON BOTH SIDES OF BANK STREET, FROM RESIDENCE TO LIGHT INDUSTRIAL, REQUESTED BY EPMORE, INC.

Mr. James O. Moore, Attorney representing Epmore, Inc., Mrs. W. Marshall Moore, President, requested that the proposed classification of a number of lots located on both sides of Bank Street be changed from RESIDENCE to LIGHT INDUSTRIAL. He stated that the property in question is a short distance on Bank Street, as the street extends in a southerly direction from Griffith Street near the southwesterly city limits. That all of the adjoining property in the Marshall Moore Subdivision is business. He stated that the property in question was acquired for industrial purposes, and is of no value for residential purposes. That the corporation already has and is erecting quite a number of buildings in the subdivision for business and industrial purposes. That a warehouse is now being constructed on the adjoining lot for the Hajoca Corporation. That since the zoning survey was made in March 1955 very substantial business improvements have been made up and down Bank Street, and it is their belief if another survey is made, the Planning Commission would change the classification in light of the changed circumstances. He stated they feel their request for a Light Industrial classification is reasonable.

No objections to the request were expressed.

CHANGE IN PROPOSED CLASSIFICATION OF 300 FEET FRONTAGE OF PROPERTY ON YORK ROAD, ACROSS FROM ARROWOOD ROAD INTERSECTION, FROM RESIDENCE, TO 600 FT. FRONTAGE AS BUSINESS, REQUESTED BY OWNER, JOHN G. NEWITT.

Mr. John McDowell, Mr. Kenneth Whitsett and Mr. Harvey Hunter, spoke in opposition to the request of Mr. John Newitt for a change in the proposed classification of 300 feet of his property consisting of 52.2 acres on York Road, across from Arrowood Road intersection, 6 1/2 miles from Charlotte, from RESIDENCE to BUSINESS.

Mr. McDowell stated that he and his mother own 400 acres in the area, which has been in his family since 1752; that it is an agricultural section and they strongly urge that it be zoned residential, as recommended by the Planning Commission. He stated there are other residents in this section who also object to a change in this classification.

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Mr. Kenneth Whitsett stated he lives in Steele Creek, about 1800 feet off York Road, and within a few hundred feet of the Newitt property, and the section is comprised of homes, churches and farm land. That it is one of the few highways coming into Charlotte that is not industrialized. That there are not even Service Stations in the area. That the residents wish the section to remain as it is and come under the residence classification.

Mr. Harvey Hunter stated he has about 228 acres of land in the area. That he would dislike to see any let down in the community and everyone he has come in contact with within the section feels the same way.

Mr. John Newitt, petitioner, advised that the property of the opponents is some distance from his. That Mr. Hunter's place is a pig farm, which is not residential and which many of the neighbors wish to get rid of; that Mr. Hunter also operates a Dairy. He stated he is only seeking an outlet for his property, that under this classification he is hemmed in. That 300 ft. frontage is now zoned RESIDENTIAL and he must have 600 ft. frontage zoned BUSINESS for an outlet from his property.

Mr. Newitt advised the Council that before any perimeter zoning ordinance is passed, they should first consider the constitutional limitations, the rights of the owners of the property, the injury to the County as a separate governmental function, and how to plan for the future. He stated he does not desire to retard the progress of the City of Charlotte, or to be against anyone; the thing is how the growth and betterment can best be administered, and at the same time respect the property rights of county citizens and comply with the State Constitution.

That regulation without representation is bad. That this procedure of perimeter zoning of an area 7 miles from The Square is most unusual. For the City Council to pass ordinances whereby certain rules and conditions are imposed on County citizens whereby violations could become misdemeanors is certainly a new procedure. That the property owners living outside the city who have not had an opportunity to vote for the City Council now might find themselves subject to laws made by the City Council, without the right of representation in elections. He stated further that the Council might go a reasonable distance of a mile or so and control the type of construction, but under the proposed perimeter zoning it is proposed to go as far as 7 miles. That in another five years the City might go out another 5 miles and on and on. That it is his firm belief that it may well result in a test case and the Supreme Court will not back it up to any 7 mile limit.

Mr. Newitt stated that monopolies are bad. That Article I, Section 31 of the State Constitution provides that perpetuities and monopolies are contrary to the genius of a free State and ought not to be allowed. That spot zoning is granting to a few the special privilege of using their property for the highest values, to the exclusion of others. That the proposed zoning is spot zoning and its inherent wrong can be shown. That York Road is a main artery and there are a number of stores, service stations, warehouses and businesses located on it, which the Council can see going to the Shrine Club. He stated further that the Supreme Court in 1927 passed on a case where there were six service stations in this particular town, and the town's governing body tried to keep other such stations out on the theory of safety from fire hazard. That the Supreme Court found this to be a monopoly and did not allow it.

Mr. Newitt stated that Article II, Section 29 of the State Constitution provides that no local law shall be passed by the Legislature regulating health, sanitation, etc., that general laws applicable to the County and State may be passed. That this perimeter zoning law applies to only a part of Mecklenburg County and imposes restrictions on County citizens; that it is, therefore, obviously a local law and unconstitutional. That the mere fact that the County Commissioners will approve the zoning will not change the fact that it is a local law, and cannot excuse the County for approving such law made by the City of Charlotte to apply to county citizens.

He called attention to the fact that the zoning laws of our State are limited; that in a recent North Carolina case, 242 N.C. 525, 1955, the State passed on the power of cities to pass zoning laws, and laid down these rules: That the power to enact zoning laws rests on statutory authority. (2) That while the State-wide laws authorize cities and towns to provide zoning inside the corporate limits, the city does not have the power to go beyond these limits. (3) That the Charter of a city must provide for zoning outside the city, and the Charter of Charlotte must be properly amended to obtain such power. He stated further that a municipal ordinance invalid under an enabling statute in effect at the time of its enactment, is not validated by an amendment of the statute.

Mr. Newitt stated that future zoning outside the city is unconstitutional, as shown in a recent case on June 6, 1955, where a trailer camp was placed in a residential zoned area, outside the city of Detroit, and the matter of future planning was involved. That the Supreme Court of Michigan unanimously held the zoning law invalid and stated that the test of validity is not whether the prohibition may at some time in the future bear a real relationship to the public health and welfare, but whether it does so NOW. Mr. Newitt asked if the Council believes that there is any danger to the City's health from what may be done to the farm land 7 miles from The Square?

He stated further that York Road is an extension of South Tryon Street, a business street and a highway, where industries, and business exists and are developing. That the new railroad crossline will reach 4 miles from The Square and will haul freight and their freight yards will be out there, which is logical and reasonable. That now the Planning Commission says this is a residential area, and the business places will change to residences. Are they also going to say that the Celanese Office Building is business and so Sharon Township is to be business and the residential trend is to reverse itself?

Mr. Newitt stated there is danger that the City will swallow up Mecklenburg County, which was never contemplated by the Constitution, the County nor the residents of the County. That he is opposed to eliminating the County and having only the City of Charlotte.

Mr. Newitt stated that the danger of zoning as proposed is that residential lots can only be sold after great expenditures are made for 50-foot streets, drainage, etc. That for lots 100 foot by 200 foot the costs of such improvements is about \$4,000.00, which would mean that an acre would bring about \$8,000.00. At the present time the little home owner can go to the country and for this sum of money buy about 16 acres for his home. He stated it is the little man that is being punished.

Mr. Newitt said he has tried to show the City Council that it is better to limit itself to the area of Charlotte.

He asked that 600-ft. fronting be zoned BUSINESS as an outlet from his property, as he is hemmed in by the 300-ft. frontage zoned RESIDENCE.

CHANGE IN PROPOSED CLASSIFICATION OF 260 ACRES OF LAND IN BERRYHILL TOWNSHIP, 3/4TH MILES FROM YORK ROAD AND BOUNDED BY CLANTON ROAD, FROM RURAL TO INDUSTRIAL, REQUESTED BY DWIGHT L. PHILLIPS, PRESIDENT, CHANEY DEVELOPMENT COMPANY.

Mr. Dwight L. Phillips, President, Chaney Development Company, requested that the proposed classification of their 260 acres of land adjacent to and southwest of Charlotte, in Berryhill Township, 3/4th miles from York Road and bounded by Clanton Road, be changed from RURAL to INDUSTRIAL. He stated this Company has been in business about fifteen years and has probably built one or two million dollars in property. He stated the City of Charlotte owns 1000 acres, which is the Irwin Creek Sewage Outfall property, adjoining his property. That his Company has several thousand dollars invested in this property and they purchased it for business and industrial purposes. That on Clanton Road a new factory has just been erected; that his property has the railroad crossline on it; that the proposed Highway 21 will go right

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through his property. He stated that Mr. Clanton has 40 acres adjoining his property and asked him to request that his property be zoned for Business. That they are willing to set up a buffer zone if anyone thinks they will be hurt by the development of business on the property. He stated that industries and businesses must be on highways and railroads, and if property such as his is going to be classed as residential, then where are industries and businesses going? That if his company, who will spend two or three million dollars on development is so restricted, then the property will lay there undeveloped.

Mr. Phillips stated that he has looked for a tract of land 400 x 400 in the city limits for a four million dollar building and it cannot be found because it is'nt here.

He asked that the Council give his property a Business or Industrial zoning.

There were no objections raised to the change in zoning.

HEARING TO BE DISCONTINUED AT 10:30 O'CLOCK P.M. TO BE CONTINUED AT A LATER DATE.

Mayor pro tem Smith stated that tonight's Hearing will be discontinued at 10:30 o'clock, and those persons whom time did not permit being heard tonight will be heard later and another Hearing date will be set.

Mr. S. R. Brookshire, Chairman of the Sharon-Providence Home Owners Committee, advised there is a large group of residents present interested in requesting that no change be made in the RESIDENTIAL classification proposed by the Planning Commission of the Providence Road-Sharon Lane property, and as the Hearing tonight will now close and they cannot be heard until later, he wished to present them and let them go home.

RURAL OR RESIDENTIAL ZONING OF AREA AROUND HERRON ROAD, FORMERLY OLD CLANTON ROAD, REQUESTED BY MRS. A. J. BOST.

Mrs. A. J. Bost stated her family has resided on Herron Road for the past twelve years, and they wish to keep the section residential and that no business or industrial development be permitted within the area, therefore they request that it be classified as RURAL or RESIDENTIAL.

CHANGE IN PROPOSED CLASSIFICATION OF PROPERTY ON RANDOLPH ROAD AND SHARON-AMITY ROAD, REQUESTED BY PROPERTY OWNERS ON RANDOLPH ROAD AND ALONG SHARON-AMITY ROAD.

Mr. Robert L. Hines, Attorney, representing himself and the owners of property on Randolph Road and on Sharon-Amity Road, requested changes in the proposed classification of property along Randolph Road and Sharon-Amity Road. Mr. Hines advised that the property on the southeast corner 640 feet down Sharon-Amity Road and 690 feet down Randolph Road was sold to Amity Supply Company in 1953 with restrictions, and the deeds restrict them to single family residences. He stated they did not appear before the Planning Commission when the classifications were being made, as they knew nothing about it. He requested that the Council remove the Residence-2 zone on Randolph Road entirely and remove all business zoning. Mr. Hines stated they feel that the City Council will take off the Business and Residence-2 zones on both sides and let Sharon-Amity Road be a buffer zone.

Mr. Hines stated further that all of the petitioners for this classification are present.

Mr. T. Z. Sprott, Jr., resident of Randolph Road, stated he feels there was an error made by the Planning Commission in the zoning of this area, and is naturally concerned about the classification of the area in front of his home. That, too, he is anxious that Amity Road not be zoned Business-1. That if it is, it will block the building of a church now proposed at this location. He urged that the Council remove the Business-1 and Residence-2 classifications.

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Mr. Webb Bost stated he has just completed his home on Randolph Road and is ready to move in. That he felt well protected with the restrictions in his deed. That it seems unfair to invest in homes and not get the protection expected from the deed restrictions. He asked that the changes requested by Mr. Hines and Mr. Sprott be made.

HEARING CONTINUED TO TUESDAY, OCTOBER 4TH, AT 7:30 O'CLOCK P.M. IN CRIMINAL COURT ROOM, MECKLENBURG COUNTY COURT HOUSE.

Following a discussion of the time for the continued hearing, the Council unanimously continued the hearing until Tuesday, October 4th, at 7:30 o'clock p.m., in the Criminal Court Room of the Mecklenburg County Court House.

Lillian R. Hoffman

Lillian R. Hoffman
City Clerk