

Mayor Patrick L. McCrory    Mayor Pro Tem Susan Burgess  
Michael Barnes                Nancy Carter  
Warren Cooksey              Andy Dulin  
Anthony Foxx                  Patsy Kinsey  
John W. Lassiter              James E. Mitchell, Jr.  
Edwin B. Peacock III        Warren Turner

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***CITY COUNCIL ZONING AGENDA***  
***Tuesday, January 22, 2008***

**5:00PM – Council/Manager Dinner**  
**Meeting Chamber Conference Room**

**6:00PM – Zoning Decisions**  
**Meeting Chamber**

***DINNER MEETING***

- *Review of Agenda – Keith MacVean*
- *Discuss the timing of traffic impact studies*

**ALL REZONING PETITIONS MAY BE VIEWED ON THE WEB AT**  
**[www.rezoning.org](http://www.rezoning.org)**

## **REZONING ACRONYMS**

<u>Zoning Districts</u>	<u>Overlay Districts</u>
<ul style="list-style-type: none"> <li>● <b>B-1</b> – neighborhood business district</li> <li>● <b>B-2</b> – general business district</li> <li>● <b>B-1SCD</b> – business shopping center district</li> <li>● <b>BD</b> – distributive business district</li> <li>● <b>BP</b> – business park district</li> <li>● <b>CC</b> – commercial center district</li> <li>● <b>I-1</b> – light industrial district</li> <li>● <b>I-2</b> – general industrial district</li> <li>● <b>INST</b> – institutional district</li> <li>● <b>MUDD</b> – mixed use development district</li> <li>● <b>MX-1</b> – mixed use district</li> <li>● <b>MX-2</b> – mixed use district</li> <li>● <b>MX-3</b> – mixed use district</li> <li>● <b>NS</b> – neighborhood services district</li> <li>● <b>O-1</b> – office district</li> <li>● <b>O-2</b> – office district</li> <li>● <b>O-3</b> – office district</li> <li>● <b>R-3</b> – single-family residential – up to 3 dwelling units per acre (dua)</li> <li>● <b>R-4</b> – single-family residential – up to 4 dua</li> <li>● <b>R-5</b> – single-family residential – up to 5 dua</li> <li>● <b>R-6</b> – single-family residential – up to 6 dua</li> <li>● <b>R-8</b> – single-family residential – up to 8 dua</li> <li>● <b>R-8MF</b> – multi-family residential – up to 8 dua</li> <li>● <b>R-12MF</b> – multi-family residential – up to 12 dua</li> <li>● <b>R-17MF</b> – multi-family residential – up to 17 dua</li> <li>● <b>R-22MF</b> – multi-family residential – up to 22 dua</li> <li>● <b>R-43MF</b> – multi-family residential – up to 43 dua</li> <li>● <b>R-MH</b> – residential manufactured housing</li> <li>● <b>RE-1</b> – research district</li> <li>● <b>RE-2</b> – research district</li> <li>● <b>RE-3</b> – research district</li> <li>● <b>TOD</b> – transit oriented development</li> <li>● <b>TOD-E</b> – transit oriented development – employment</li> <li>● <b>TOD-EO</b> – transit oriented development – employment - optional</li> <li>● <b>TOD-M</b> – transit oriented development – mixed use</li> <li>● <b>TOD-MO</b> – transit oriented development – mixed use – optional</li> <li>● <b>TOD-R</b> – transit oriented development – residential</li> <li>● <b>TOD-RO</b> – transit oriented development – residential - optional</li> <li>● <b>U-I</b> – urban industrial district</li> <li>● <b>UMUD</b> – uptown mixed use district</li> <li>● <b>UMUD-O</b> – uptown mixed use district - optional</li> <li>● <b>UR-1</b> – urban residential</li> <li>● <b>UR-2</b> – urban residential</li> <li>● <b>UR-3</b> – urban residential</li> </ul>	<ul style="list-style-type: none"> <li>● <b>CR/LWW</b> – Catawba River / Lake Wylie watershed</li> <li>● <b>CR/LWWCA</b> – Catawba River / Lake Wylie watershed – critical area</li> <li>● <b>CR/LWWPA</b> – Catawba River / Lake Wylie watershed – protected area</li> <li>● <b>HD-O</b> – historic district overlay</li> <li>● <b>HW</b> – hazardous waste overlay</li> <li>● <b>LNW</b> – Lake Norman watershed</li> <li>● <b>LNWCA</b> – Lake Norman watershed – critical area</li> <li>● <b>LNWPA</b> – Lake Norman watershed – protected area</li> <li>● <b>LLWW</b> – Lower Lake Wylie watershed</li> <li>● <b>LLWWCA</b> – Lower Lake Wylie watershed – critical area</li> <li>● <b>LLWWPA</b> – Lower Lake Wylie watershed – protected area</li> <li>● <b>MILW</b> – Mountain Island Lake watershed</li> <li>● <b>MILWCA</b> – Mountain Island Lake watershed – critical area</li> <li>● <b>MILWPA</b> – Mountain Island Lake watershed – protected area</li> <li>● <b>MH</b> – manufactured home overlay</li> <li>● <b>PED</b> – pedestrian overlay district</li> <li>● <b>PED-O</b> – pedestrian overlay district – optional</li> <li>● <b>TS</b> – transit supportive overlay district</li> </ul> <p style="text-align: center;"><u>Miscellaneous Acronyms</u></p> <ul style="list-style-type: none"> <li>● <b>CD</b> – conditional</li> <li>● <b>SPA</b> – site plan amendment</li> </ul>

• **UR-C** – urban residential - commercial

***SPECIAL REQUEST***

	<p>A. <b>Infrastructure Reimbursement Agreement</b> for P&amp;L Coliseum, L.P. (the “Developer” an affiliate of Pope &amp; Land Enterprises, Inc. (known as City Park Development - Charlotte Coliseum Site –Tyvola Road). Additional information may follow in Friday, January 18, 2008 Council Manager Memo.</p>
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***DECISIONS***

<p><b>Deferral (one-month)</b></p> <p><b>Protest (sufficient)</b></p>	<p>1. <b>Petition No. 2006-154 (decision) by Cram Holdings Group, LLC</b> for a change in zoning of approximately 0.2 acres located on the west side of South Boulevard between Arlington Avenue and East Palmer Street from B-2 to TODM(O).</p> <p><i>A protest petition has been filed and is sufficient to invoke ¾ majority-voting rule.</i></p> <p>The Zoning Committee voted unanimously to recommend a <b>ONE-MONTH DEFERRAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 1</p>
	<p>2. <b>Petition No. 2007-47 (decision) by Gateway Homes, LLC</b> for a change in zoning of approximately 2.94 acres located on the northeast corner of North Tryon Street and Pavilion Boulevard from B-1 and R-12MF to NS.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>North East District Plan</i> and reasonable and in the public interest and voted 6-0 to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ul style="list-style-type: none"> <li>• The amount of retail square footage was reduced from 20,000 to 16,900.</li> <li>• 10% tree save area is shown on the site plan</li> <li>• The building setback along Hwy 29 is 20-feet.</li> <li>• The road on the western portion of the site will be a major thoroughfare built to major thoroughfare standards.</li> <li>• The parking on the eastern side of the site has been moved behind the front corner of the building.</li> <li>• The number of parking spaces has been reduced to 92.</li> <li>• An 8-foot planting strips connecting to the adjacent parcel along the private internal road has been provided.</li> <li>• The proposed public street along the northern property line will terminated as a stub street for the future extension.</li> <li>• No convenience stores, gasoline sales, and drive-through window facilities will be allowed.</li> <li>• No spandrel glass will be allowed along street fronts. Glass doors with emergency access bars along the street fronts will be provided.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 2</p>
	<p>3 <b>Petition No. 2007-82 (decision) by Pope &amp; Land Enterprises, Inc.</b> for a change in zoning of approximately 170.27 acres located between West Tyvola Road and Billy Graham Parkway at the site of the old Charlotte Coliseum from I-2(CD), MUDD-O, O-1(CD), O-15(CD) and R-4 to MUDD-O and MUDD-O SPA.</p> <p>The Zoning Committee unanimously found this petition consistent with the <i>Southwest District Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ul style="list-style-type: none"> <li>• The Pedestrian enhancements on Tyvola Road are now addressed in Section 10 of</li> </ul>

the Development Standards and specifically provide as follows:

“Pedestrian connections across Tyvola Road will be provided as generally depicted on the Conceptual Site Plan that will include the necessary crosswalks, a landscaped median refuge island, and pedestrian signals.”

- There will only be one building which needs a deviation from the MUDD height standards; namely the building located at the top of City Park Boulevard which will be known as the Pinnacle at City Park. This building may have 11 stories above ground and a height of up to but not exceeding 150 feet. All other buildings within City Park will satisfy the general height requirements of the MUDD ordinance.

- A note will be added as follows:

“The intent of the City Park redevelopment concept is to create a variety of architectural experiences. The redevelopment will utilize primarily stone, brick, stucco and/or architectural face block construction materials and contains a provision referring to a perspective which is intended to describe the conceptual architectural theme proposed for City Park. However, it should be noted that the perspective is schematic in nature. Accordingly, the architectural concept may be altered or simplified during design development and construction phases.”

- This Petition proposes utilization of the MUDD-O provisions to allow for the following optional deviations:

- Deviations that would allow surface level off street parking spaces and maneuvering within areas between any building fronting on any public street that was in existence as of the date on which this Rezoning Petition is approved and the particular public street involved.

- Deviations that would allow those buildings within the City Park Town Square Retail District which are shown on the Conceptual Site Plan or the Conceptual Site Plan Alternate to have off-street parking spaces or maneuvering within areas between these buildings and the public or private street on which they front to have such areas.

- Deviations that would allow surface level off street parking spaces and maneuvering within areas located between any building constructed within that part of the Site which is bounded by Billy Graham Parkway, re-aligned Yorkmont Road, and Price Lane and the street on which it fronts.

- The Site will have 7% of tree save as noted on Sheet RZ4.0 of the Rezoning Plans.
- The spandrel glass issue has been resolved by rewriting the text under Section 14 Design and Performance Standards.

- The 11<sup>th</sup> bullet now provides as follows:

“The street elevations of the first floors of all buildings in which ground floor retail uses are to be located on City Park Drive and City Parkway will be designed to encourage and complement pedestrian – scale interest and activity by the use of doors which shall remain open during business hours and transparent store front glass so that the uses are visible from and accessible to the street.

“Expanses of blank walls exceeding 20 feet in length that would not add to the character of the streetscape will be eliminated through use of any one or more of the following design elements:

Awnings, display windows, ornamentation, molding, string courses, belt courses, fountains, street furniture, landscaping and garden areas, and display areas.

“Provided, however, that the use of opaque or reflective glass may not be utilized as a means for addressing blank walls.

“Meter boxes, back flow preventors, and similar items will be screened from public view.

- The Petitioner has added a new paragraph to Section 6 which establishes maximums for the various types, sizes, and height of certain signs which are subject to deviations. These sign provisions are as follows:

Deviations from the signage provisions to allow the following:

Detached, ground-mounted project /tenant identification signs are permitted. Signs on Tyvola Road, Yorkmont Road, and Billy Graham Parkway may extend to a height of up to 25 feet and may include up to 100 square feet in signage area. The number of signs will be limited to two along Tyvola, and one each on Yorkmont and Billy Graham Parkway.

Other detached project/tenant identification signs on the interior of the project shall be limited in size to 10 feet in height and 80 square feet in signage area;

Allowable signage types include all types of signage permitted under Chapter 13, including and/or in addition to computer programmable L.E.D. systems with full color, full matrix display and message boards including ticker tape type moving messages. However, in no event shall a L.E.D. sign or a message board sign be permitted along any portion of the Site's frontage along Tyvola Road, Yorkmont Road or Billy Graham Parkway;

One monument style building identification sign of up to 6 feet in height and up to 36 square feet in signage size area for each building located within the site;

	<p>Wall mounted signage to conform to the UMUD District standards of the Ordinance.</p> <ul style="list-style-type: none"> <li>Section 9 of the Development Standards speaks specifically to this concern by providing that: <p>“The Site’s internal street system shall be composed of public and private streets as depicted on the Technical Data Sheet. The right to deviate from the street alignments depicted on the Technical Data Sheet is reserved, provided any proposed change in alignment is approved in advance by CDOT and/or NCDOT, as applicable. Each street section will be consistent with the proposed Urban Street Design Guidelines for its type of street.”</p> </li> <li>A new Perspective Rendering looking up City Park Drive will be provided to set the standard for City Park.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 3</p>
<p><b>Deferral (indefinite)</b></p>	<p>4. <b>Petition No. 2007-85 (decision) by Harris, Murr &amp; Vermillion, LLC</b> for a change in zoning of approximately 2.57 acres located on the southeast corner of East Westinghouse Boulevard, China Grove Church Road and Crump Road from I-1 and I-2 to TOD-M.</p> <p>Petitioner has requested an indefinite deferral of this petition.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>I-485 Transit Station Area Plan</i> and reasonable and in the public interest. The Zoning Committee’s vote resulted in a 3-3 tie. This petition is automatically <b>DEFERRED for ONE-MONTH</b>.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 4</p>
<p><b>Protest (withdrawn)</b></p>	<p>5. <b>Petition No. 2007-87 (decision) by Amy Carver</b> for a change in zoning of approximately 0.49 acres located on the southeast corner of Spencer Street and East 37<sup>th</sup> Street from R-5 to R-6(CD).</p> <p><i>A protest petition has been filed and is sufficient to invoke ¾ majority-voting rule, but has subsequently been withdrawn.</i></p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Northeast Transit Plan</i> and to be reasonable and in the public interest voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p>

	Attachment 5
<b>Deferral (one-month)</b>	<p>6. <b>Petition No. 2007-110 (decision) by Robert K. Nixon</b> for a change in zoning of approximately 0.19 acres located at the intersection of Pecan Avenue and Gordon Street from MUDD-O(PED) to MUDD-O SPA(PED).</p> <p>The Zoning Committee voted unanimously to recommend a <b>ONE-MONTH DEFERRAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 6</p>
	<p>7. <b>Petition No. 2007-111 (decision) by Fourth Ward Square Associates</b> for a change in zoning of approximately 3.54 acres located on the block bounded by North Graham Street, North Smith Street, West 8<sup>th</sup> Street and West 9<sup>th</sup> Street from MUDD-O(HD-O) to MUDD-O SPA(HD-O).</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Fourth Ward Plan</i> and reasonable and in the public interest and unanimously recommended <b>APPROVAL</b> with the following modifications:</p> <ul style="list-style-type: none"> <li>• The petitioner has deleted all references to the previous petition.</li> <li>• The petitioner has added storm water notes to the site plan.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 7</p>
<b>Deferral (one-month)</b>	<p>8. <b>Petition No. 2007-113 (decision) by Budget Development Partners, LLC</b> for a change in zoning of approximately 1.85 acres located on the south side of West Morehead Street, just west of I-77 from B-1(PED) to B-D(CD)PED-O.</p> <p>The Zoning Committee voted unanimously to recommend a <b>ONE-MONTH DEFERRAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 8</p>
<b>Deferral (one-month)</b>	<p>9. <b>Petition No. 2007-118 (decision) by Brookechase Properties</b> for a change in zoning of approximately 5.00 acres located on the northeast corner of Providence Road and</p>

<p><b>Protest (sufficient)</b></p>	<p>Westbury Road from R-3 to R-5(CD)and UR-2(CD).0</p> <p><i>A protest petition has been filed and is sufficient to invoke ¾ majority-voting rule.</i></p> <p>The Zoning Committee voted unanimously to recommend a <b>ONE-MONTH DEFERRAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 9</p>
	<p>10. <b>Petition No. 2007-127 (decision) by Charlex Development Corp., LLC</b> for a change in zoning of approximately 1.20 acres located on the southwest corner of Park Road and Drexel Place from R-4, R-43MF and O-2 to MUDD(CD).</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Central District Plan</i> and the <i>Park Road Corridor Plan</i> and to be reasonable and in the public interest and unanimously voted to recommend <b>APPROVAL</b> of this petition, based upon the following modifications:</p> <ul style="list-style-type: none"> <li>• An elevation from the west side of the building will be added to the site plan that will be similar to the east elevation.</li> <li>• The building’s maximum height will be 54 feet except for the cupolas, which will be up to 59 feet high.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 10</p>
	<p>11. <b>Petition No. 2007-137 (decision) by South End Silos, LLC</b> for a change in zoning of approximately 1.50 acres located on the west side of South Boulevard and the south side of Remount Road from TOD-M to TOD-MO.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>General Development Policies – Transit Station Area Principles</i> and reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> this petition with the following modifications.</p> <ul style="list-style-type: none"> <li>• The petitioner has noted that the multi-use trail will be concrete.</li> <li>• The petitioner will install a decorative fence, decorative lighting and trees and shrubs along the rail line.</li> <li>• The petitioner has partially addressed Storm Water Services comments. Storm Water Services would like the petitioner to comply with the Post Construction ordinance</li> </ul>

	<p>when the parking lot is constructed even if that occurs prior to July 1, 2008.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 11</p>
	<p>12. <b>Petition No. 2007-142 (decision) by The Boulevard Company</b> for a change in zoning of approximately 0.39 acres located on the south side of the intersection of Kenilworth Avenue, Scott Avenue and Romany Road from O-2 to MUDD-O.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>Dilworth Land Use and Streetscape Plan</i>, and to be reasonable and in the public interest and voted unanimously to recommend <b>CONDITIONAL APPROVAL</b> of this petition. That approval is based upon the petitioner meeting the following conditions:</p> <ul style="list-style-type: none"> <li>• Submittal of revised plans that provide additional detail of the streetscapes and garage screening.</li> <li>• Limiting the height of the building to 50 feet and submit revised building elevations. The Dilworth Community Development Association must be permitted to review the revised elevations prior to submittal.</li> <li>• Placing the underground parking below the surface parking with as much as five feet of the parking structure protruding above grade.</li> <li>• Total square footage will not exceed 30,000 square feet.</li> <li>• Trash storage and handling will be within the underground parking structure.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 12</p>
	<p>13. <b>Petition No. 2007-143 (decision) by Gateway Homes, LLC</b> for a change in zoning of approximately 0.93 acres located on the northwest corner of North Tryon Street and Pavilion Road from R-3 to NS.</p> <p>The Zoning Committee unanimously found this proposal <u>in</u>consistent with the <i>Northeast Area Plan</i>, but reasonable and in the public interest voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 13</p>
<b>Deferral (one-month)</b>	<p>14. <b>Petition No. 2007-144 (decision) by BBC Development, LLC</b> for a change in zoning of approximately 0.71 acres located on the southwest corner of North Davidson Street and Anderson Street from I-2 to MUDD(CD).</p>

	<p>The Zoning Committee voted unanimously to recommend a <b>ONE-MONTH DEFERRAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee. Attachment 14</p>
	<p>15. <b>Petition No. 2007-147 (decision) by Tawanta Johnson</b> for a change in zoning of approximately 0.90 acres located on the northwest corner of Hovis Road and Wildwood Avenue from R-5 and R-8MF(CD) to INST(CD).</p> <p>The Zoning Committee unanimously found this proposal to be <u>in</u>consistent with the <i>Northwest District Plan</i> but to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee. Attachment 15</p>
	<p>16. <b>Petition No. 2007-148 (decision) by Evans Delivery Company, Inc.</b> for a change in zoning of approximately 4.25 acres located on the southeast corner of Old Mt. Holly Road and Aqua Chem Drive from I-1(CD) to I-2(CD).</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>Northwest District Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee. Attachment 16</p>
	<p>17. <b>Petition No. 2007-149 (decision) by The Boulevard Company</b> for a change in zoning of approximately 1.13 acres located on the northeast corner of South Church Street and Lincoln Street from I-2 and TOD-MO to TOD-M.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>South End Transit Station Area Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee. Attachment 17</p>
	<p>18. <b>Petition No. 2007-150 (decision) by Charlotte Mecklenburg Planning Commission</b> for a change in zoning of approximately 1.64 acres located on the west side of South Boulevard between Remount Road and Atherton Street from I-2 to TOD-M.</p>

	<p>The Zoning Committee unanimously found this petition to be consistent with the <i>General Development Policies – Transit Station Area Principles</i> and draft <i>New Bern Transit Station Area Plan</i> and reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee. Attachment 18</p>
	<p>19. <b>Petition No. 2007-151 (decision) by Childress Klein Properties</b> for a change in zoning of approximately 1.29 acres located on the northwest corner of South Tryon Street and West 1<sup>st</sup> Street from UMUD-O to UMUD-O SPA.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>Center City 2010 Vision Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 19</p>
	<p>20. <b>Petition No. 2007-152 (decision) by Tracy Finch</b> for a change in zoning of approximately 0.45 acres located on the southeast corner of East Morehead Street and Euclid Avenue from B-1 to MUDD(CD).</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>Central District Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition, based upon the following modifications:</p> <ul style="list-style-type: none"> <li>• Vegetative screening of the grillwork surrounding the parking deck will be added.</li> <li>• New sidewalks and planting strips will be constructed that comply with the requested district.</li> </ul> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 20</p>

	<p>21. <b>Petition No. 2007-154 (decision) by Charlotte Mecklenburg Planning Commission</b> for a change in zoning of approximately 2.44 acres located on the west side of South Boulevard between East Carson Boulevard and Arlington Avenue from B-2 to TOD-M.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with the <i>South End Transit Station Area Plan</i> and to be reasonable and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 21</p>
	<p>22. <b>Petition No. 2007-157 (decision) by Charlotte-Mecklenburg Planning Commission</b> for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to add a new definition for Commercial Outdoor Amusement.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with adopted policies, and reasonable, and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 22</p>
	<p>23. <b>Petition No. 2007-159 (decision) by Charlotte-Mecklenburg Planning Commission</b> for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to clarify that payments for citations should be made to the issuing department.</p> <p>The Zoning Committee unanimously found this proposal to be consistent with adopted policies, and reasonable, and in the public interest and voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 23</p>

## **HEARINGS**

<p><b>Deferral (one-month)</b></p>	<p>24. <b>Petition No. 2007-40 (hearing).</b> Change in zoning from UR-2 to MUDD-O of approximately 1.77 acres located on the west side of North Cedar Street between West 5<sup>th</sup> Street and Cates Street. <i>Petitioner: The Boulevard Company</i></p> <p>Petitioner is requesting a one-month deferral of this petition.</p> <p>Staff is requesting a one-month deferral of this petition.</p> <p>Attachment 24</p>
	<p>25. <b>Petition No. 2007-108 (hearing).</b> Change in zoning from B-1(CD) to R-8MF(CD) of approximately 1.30 acres located on the east side of Rea Road between Colony Road and Chadwyck Farms Drive. <i>Petitioner: Jean M. Harkey</i></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 25</p>
	<p>26. <b>Petition No. 2007-128 (hearing).</b> Change in zoning from R-8 and R-22MF to UR-2(CD) of approximately 6.76 acres located along Main Street, Baxter Street and Luther Street, in the Cherry Neighborhood. <i>Petitioner: Stone-Hunt Development, LLC</i></p> <p>Staff recommends denial of this petition in its current form.</p> <p>Attachment 26</p>
	<p>27. <b>Petition No. 2007-129 (hearing).</b> Change in zoning from R-8 to UR-2(CD) of approximately 0.50 acres located on the southwest corner of Auten Street and Duckworth Avenue. <i>Petitioner: Robert T. Drakeford</i></p> <p>Staff recommends denial of this petition.</p> <p>Attachment 27</p>
<p><b>Deferral (one-month)</b></p>	<p>28. <b>Petition No. 2007-140 (hearing).</b> Change in zoning from R-3 to R-8MF(CD) of approximately 14.80 acres located on the east side of Reames Road between Bella Vista Court and Lawnmeadow Drive. <i>Petitioner: The Altura Group</i></p> <p>The petitioner is requesting a one-month deferral of this petition.</p> <p>Staff is recommending denial of this petition.</p> <p>Attachment 28</p>
	<p>29. <b>Petition No. 2007-145 (hearing).</b> Change in zoning from R-3 to NS of approximately 6.35 acres located on the southwest corner of Mt. Holly-Huntersville Road and West W.T. Harris Boulevard. <i>Petitioner: Tribek Properties</i></p> <p>Staff recommends denial of this petition.</p>

	Attachment 29
	<p>30. <b>Petition No. 2007-146 (hearing).</b> Change in zoning from B-2 to TOD-MO of approximately 0.13 acres located on the east side of South Mint Street between West Park Avenue and Westwood Avenue. <i>Petitioner: Matthew J. Badal</i></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 30</p>
	<p>31. <b>Petition No. 2008-01 (hearing).</b> Change in zoning from I-2 to I-1 of approximately 6.38 acres located on the southeast corner of Metromont Parkway and Statesville Road. <i>Petitioner: Northlake Pavilion, LLC</i></p> <p>Staff recommends approval of this petition.</p> <p>Attachment 31</p>
	<p>32. <b>Petition No. 2008-02 (hearing).</b> Change in zoning from BP(CD) to NS of approximately 6.62 acres located on the northeast corner of North Community House Road and Ballantyne Boulevard. <i>Petitioner: York Development Group</i></p> <p>Staff recommends denial of this petition.</p> <p>Attachment 32</p>
<b>Deferral (one-month)</b>	<p>33. <b>Petition No. 2008-03 (hearing).</b> Change in zoning from R-12(CD) to INST(CD) of approximately 3.83 acres located on the northeast corner of Faires Farm Road and Katherine Kiker Road. <i>Petitioner: Romanian Baptist Church of Charlotte</i></p> <p>Petitioner is requesting a one-month deferral of this petition.</p> <p>Staff cannot support this petition in its current form.</p> <p>Attachment 33</p>
<b>Deferral (one-month)</b>	<p>34. <b>Petition No. 2008-04 (hearing).</b> Change in zoning from NS, O-2 and R-5 to MUDD-O of approximately 3.87 acres located on the northeast corner of North Davidson Street and East 36<sup>th</sup> Street. <i>Petitioner: North Davidson Acquisitions</i></p> <p>Petitioner is requesting a one-month deferral of this petition.</p>

	<p>Staff cannot support this petition in its current form.</p> <p>Attachment 34</p>
	<p>35. <b>Petition No. 2008-06 (hearing).</b> Change in zoning from CC to UR-2(CD) of approximately 1.96 acres located on the northwest corner of Galleria Boulevard and Galleria Club Lane. <b><i>Petitioner: Galleria Partners II, LLC</i></b></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 35</p>
<b>Deferral (one-month)</b>	<p>36. <b>Petition No. 2008-07 (hearing).</b> Change in zoning from B-2 and R-5 to MUDD(CD) of approximately 1.18 acres located on the south side of East 10<sup>th</sup> Street between Seigle Avenue and Jackson Avenue. <b><i>Petitioner: Citiline Resortline Properties of the Carolinas, LLC</i></b></p> <p>Staff is requesting a one-month deferral of this petition to allow petitioner time to submit a revised site plan.</p> <p>Attachment 36</p>
	<p>37. <b>Petition No. 2008-11 (hearing).</b> Change in zoning from MUDD(CD) PED to B-1(CD) PED-O of approximately 0.91 acres located between West Trade Street and West 5<sup>th</sup> Street, north of North Bruns Avenue. <b><i>Petitioner: SunStar Development Group, LLC</i></b></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 37</p>
	<p>38. <b>Petition No. 2008-12 (hearing).</b> Change in zoning from I-2 to MUDD of approximately 0.54 acres located on the south side of East 35<sup>th</sup> Street between North Davidson Street and the Norfolk-Southern rail line. <b><i>Petitioner: Merrifield Partners, LLC</i></b></p> <p>Staff recommends approval of this petition.</p> <p>Attachment 38</p>
<b>Deferral (one-month)</b>	<p>39. <b>Petition No. 2008-13 (hearing).</b> Change in zoning from UR-2 to MUDD of approximately 2.94 acres located on the southeast corner of North Clarkson Street and Cates Street. <b><i>Petitioner: The Boulevard Company</i></b></p> <p>Petitioner is requesting a one-month deferral of this petition.</p> <p>Staff agrees with the request for deferral.</p> <p>Attachment 39</p>

<p><b>Deferral (one-month)</b></p>	<p>40. <b>Petition No. 2008-14 (hearing).</b> Change in zoning from R-3 to R-8MF(CD), R-12MF(CD) and O-2(CD) of approximately 72.41 acres located on the northeastern quadrant of the Rocky River Road / I-485 interchange. <b>Petitioner: Rocky River Road Associates, LLC</b></p> <p>Staff recommends a one-month deferral of this petition to allow time for CDOT to review and make recommendations based on analysis of the traffic impact study.</p> <p>Attachment 40</p>
	<p>41. <b>Petition No. 2008-16 (hearing).</b> Change in zoning from R-3 to O-1(CD) of approximately 0.64 acres located on the southeast corner of Selwyn Avenue and Hassell Place. <b>Petitioner: Selwyn Avenue Presbyterian Church</b></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 41</p>
	<p>42. <b>Petition No. 2008-17 (hearing).</b> Change in zoning from MX-2(LLWPA) to MX-2 (Innovative)(LLWPA) of approximately 59.22 acres located on the south side of Freedom Drive between Allenbrook Drive and Toddville Road. <b>Petitioner: Steve McKirdy</b></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 42</p>
	<p>43. <b>Petition No. 2008-18 (hearing).</b> Change in zoning from CC to CC SPA of approximately 2.00 acres located on the east side of Tyvola Glen Circle, northeast of the intersection of Tyvola Road and Nations Ford Road. <b>Petitioner: H.K. Patel</b></p> <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 43</p>
	<p>44. <b>Petition No. 2007-141 (hearing).</b> Consideration of a text amendment to the City of Charlotte Zoning Ordinance to 1) modify the Uptown Mixed Use District (UMUD) regulations by prohibiting fences and similar devices from locating in the required setback, except for temporary fencing for outdoor seating areas used for consumption of food and beverages, 2) add new regulations to permit valet parking services in the UR, NS, MUDD, UMUD, TOD, and TS zoning districts; 3) refine the valet parking regulations in the Pedestrian Overlay District; and 4) add a definition for valet parking service. <b>Petitioner: Charlotte-Mecklenburg Planning Department</b></p> <p>Staff recommends approval of this text amendment.</p>

	Attachment 44
	<p>45. <b>Petition No. 2007-158 (hearing).</b> Consideration of a text amendment to the City of Charlotte Zoning Ordinance to add security provisions for structured parking decks, and underground parking decks that provide parking for residential dwelling units for the urban residential, mixed use development, uptown mixed use, transit oriented development, and transit supportive zoning districts. <i>Petitioner: Charlotte-Mecklenburg Planning Commission</i></p> <p>Staff recommends approval of this text amendment.</p> <p>Attachment 45</p>
	<p>46. <b>Petition No. 2008-05 (hearing).</b> Change in zoning from MUDD(CD) to TOD-M of approximately 0.23 acres located on the southeast corner of Camden Road, South Tryon Street and West Summit Avenue. <i>Petitioner: Charlotte-Mecklenburg Planning Commission</i></p> <p>Staff recommends approval of this petition.</p> <p>Attachment 46</p>
	<p>47. <b>Petition No. 2008-15 (hearing).</b> Change in zoning from B-1 to TOD-M of approximately 0.12 acres located on the west side of Camden Road between West Boulevard and West Kingston Avenue. <i>Petitioner: Charlotte-Mecklenburg Planning Commission</i></p> <p>Staff recommends approval of this petition.</p> <p>Attachment 47</p>

<b>Appendix: Residential Location and Design Assessment Matrix (G.D.P.)</b>
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## City Park Redevelopment

**Action:** Approve an Infrastructure Reimbursement Agreement for the construction of a connector road between Tyvola Road and Billy Graham Parkway at City Park, for an amount not to exceed \$ 5.810 million funded by 45% of the tax increment generated by City Park, and \$500,000 for signalization at two intersections.

**Committee Chair:** John Lassiter

**Staff Resource:** Ron Kimble, City Manager's Office  
Tom Flynn, Economic Development Office  
Bob Hagemann, City Attorney's Office  
Danny Pleasant, CDOT

**Focus Area:** Economic Development

### Explanation

- Pope and Land, the master developer for City Park (former site of Tyvola Road Coliseum), has requested City assistance with the cost of:
  - Constructing a north-south connector road from Tyvola Road to Billy Graham Parkway, including traffic signals.
  - Constructing median improvements on Tyvola Road from the proposed connector road to South Stream Boulevard.
- The proposed connector road has the following public benefits:
  - Provides connectivity in an area of Charlotte that has poor connectivity
  - Reduces congestion at the BillyGraham/Tyvola Road Interchange
  - Provides a direct connection between Tyvola Road and the Billy Graham Center
  - Allows for the mixed-use development of the site which will increase projected annual City property taxes from this site from \$843,800 current predominantly office zoning) to \$2,861,660 (proposed mixed use zoning) at full build out. Private development from mixed use development is proposed to be \$624 million, as opposed to \$182 million under the office scenario.
- The proposed connector road is high priority infrastructure in a high priority area. Therefore it would qualify for tax increment financing of 45% of the incremental property taxes under the adopted City policy.
- A review of the projects financial pro-formas, indicates that without this public investment in the road the project has an internal rate of return of 4.78%; and with the public investment the internal rate of return increases to 8.55%.

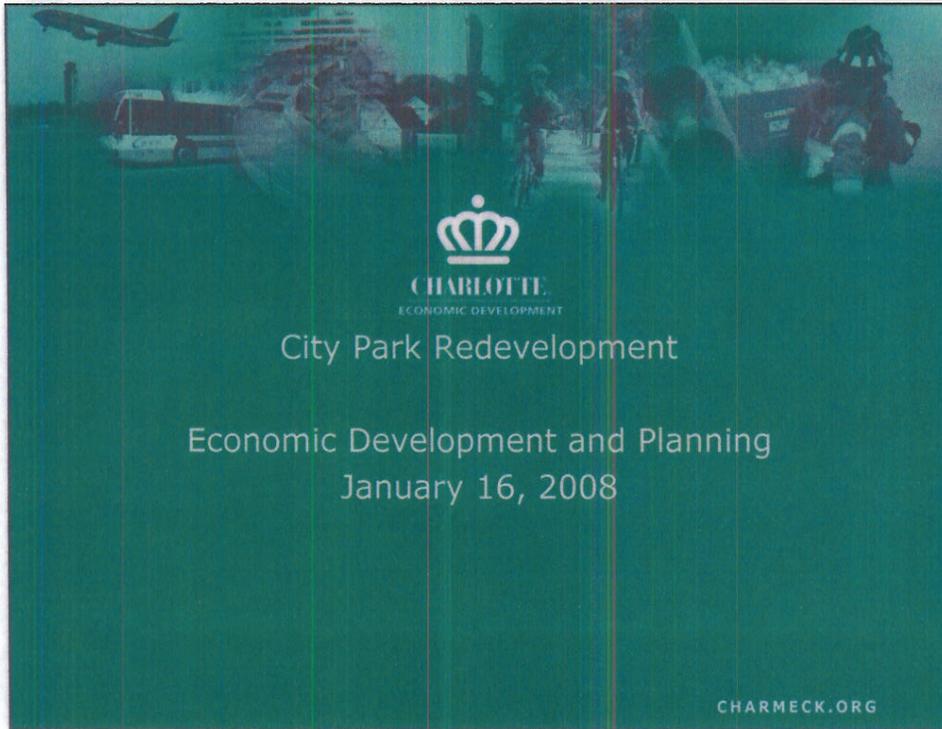
- Recommendation:
  - City reimbursement of road and median costs not to exceed \$5.810 million over ten years through 45% of the tax increment generated by the City Park redevelopment.
  - City signalizes intersections of connector road at a cost of \$500,000. funded from the City's Capital Improvement Program.
- Key Reimbursement Agreement provisions
  - Costs for Connector road are net of the costs of a portion of the road the developer would have built anyway
  - Developer acquires all right of way outside of their property and conveys that to the City upon project completion
  - Developer must commence construction of the road prior to requesting building permits for Phase II or no later than January 2012.

Committee Discussion

- The ED& Planning Committee discussed this at two meetings. At the meeting in November 19, 2007 the Committee raised several questions which are answered in the attached Q&A. The issues included:
  - What is the priority for this road development?
  - What is the tax increment between the original office plan and the mixed use plan?
  - How does the investment fit with the recently adopted TIF guidelines?
- The ED and Planning Committee was scheduled to make a recommendation on this project on January 16, 2008; however the Committee did not have a quorum. City Council voted on January 14 to place this item on the January 22<sup>nd</sup> Zoning Meeting.

**Attachment:**

- 1. PowerPoint presentation for January 16, 2008 ED&Planning Committee**
- 2. Pope and Land: Economic Development & Planning Committee Meeting Questions**
- 3. Synthetic TIF Framework**
- 4. Infrastructure Reimbursement Agreement**



  
City Park Redevelopment

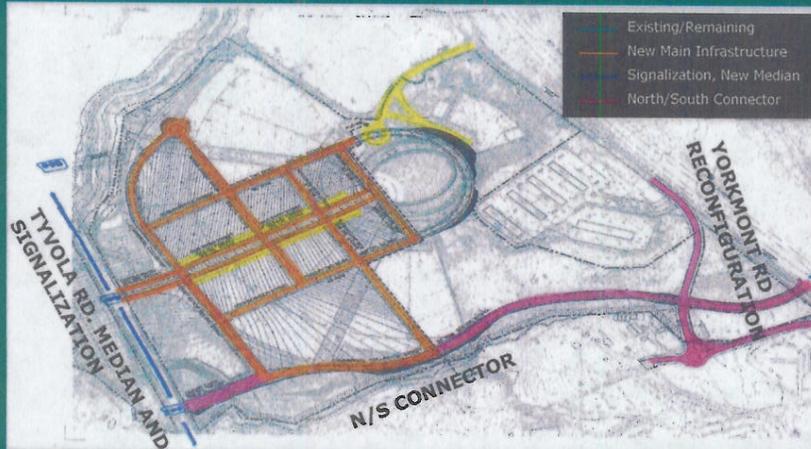
Economic Development and Planning  
January 16, 2008

CHARMECK.ORG

 Overview of Developer Request

- Property of former Coliseum on Tyvola Rd.
- Pope and Land Master Developer
- Two Phases of Development
  - Phase I: 150,000 sf office, 80,000 sf retail, 175 hotel rooms, 750 residential units
    - Demolition has begun, complete in 2010
  - Phase II: 250,000 sf office, 129,000 sf retail, 175 hotel rooms, 1,000 dwelling units
    - Projected to begin in 2011

CHARMECK.ORG



- Connector road necessity
  - Strong candidate for funding given Coliseum areas poor connectivity
  - Reduces congestion at Billy Graham/Tyvola Interchange
  - Direct connection between Tyvola Road and Billy Graham Center
- Tax differential between office-only and mixed use
  - Projected tax value for office-only = \$184M
    - Annual Property Tax: \$843,800
  - Projected tax value for mixed use = \$624M
    - Annual Property Tax: \$2,861,660

- Impact on new TIF Guidelines
  - Qualifies for High Priority Infrastructure in High Priority Area
    - TIF at 45% of incremental taxes
    - Payments would account for 7.1% of TIF capacity
- Financing Gap
  - IRR of 4.78% w/o public investment
  - IRR of 8.55% w/public investment
  - Based on existing land sale contracts for Phase I

- Sustainability Index:
- Healthy/Diverse Neighborhoods: Good
  - Land Use & Transportation: Excellent
  - Public Resources: Good
  - Community Safety: Fair
  - Enhances Prosperity: Excellent

## Cost Estimates

Connector Road/Relocated Yorkmont:	\$4.7M
Developer Phase I Road:	- .865M
Off Site ROW:	+ .575M
Tyvola Road Median	+1.4M
<hr/>	
Total Synthetic TIF	\$5.810M
Connector Road Signalization	\$ .5M

## Staff Recommendation

- Synthetic TIF to reimburse Pope & Land up to \$5.810 Million over 10 years
- CIP funding for signal improvements on connector road: \$500,000

Recommend to City Council approval of a Infrastructure Reimbursement Agreement for the construction of a connector road between Tyvola Road and Billy Graham Parkway at City Park, in an amount not to exceed \$5.810 million funded by 45% of the incremental City property taxes generated by the City Park redevelopment, and \$500,000 for signalization at the intersections.

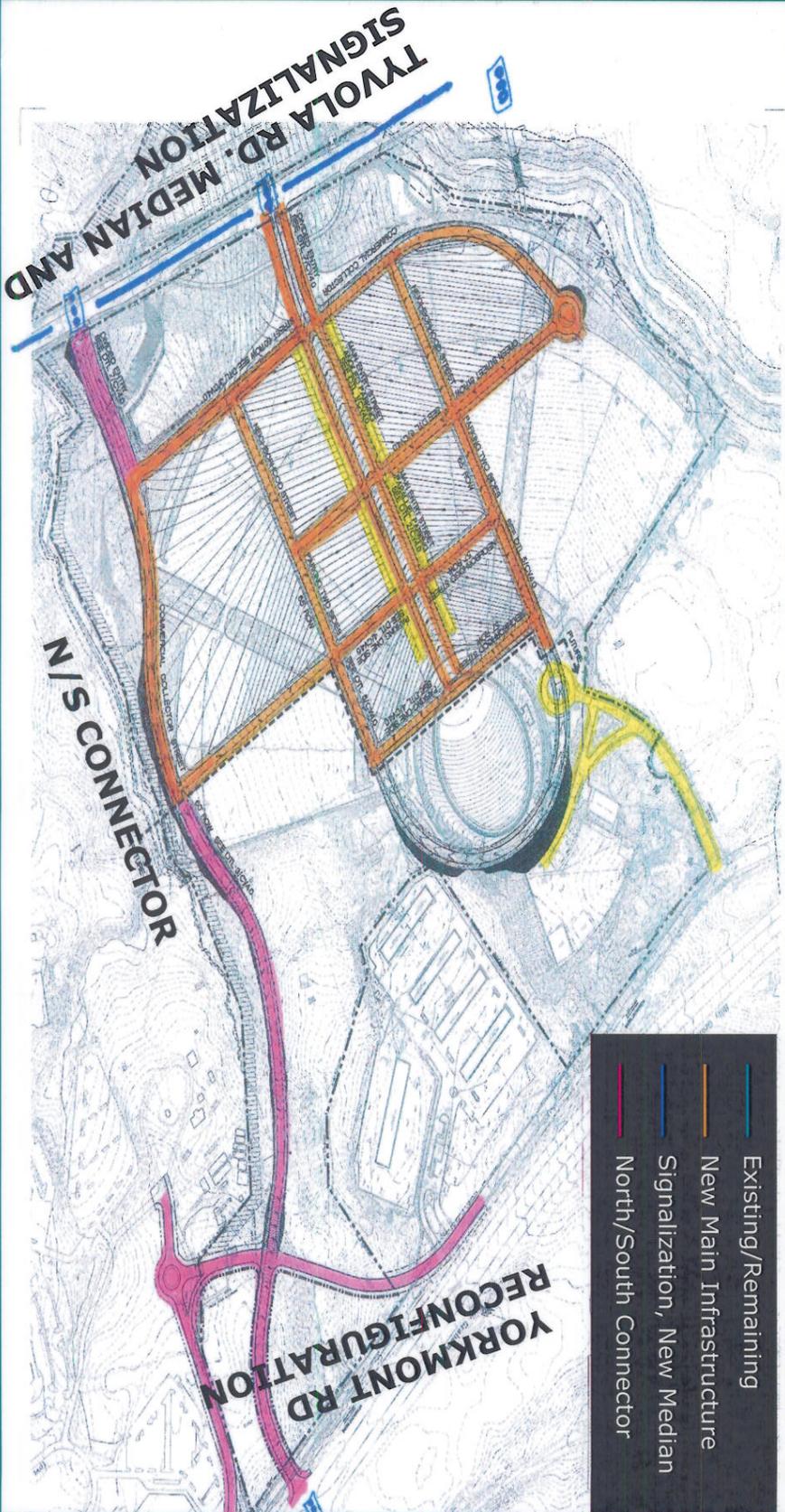
### Committee Discussion:

- Bring value to this area
- Catalyst for livability
- Build on greenway



CITY OF CHARLOTTE

# Site Plan





**CHARLOTTE**  
ECONOMIC DEVELOPMENT

**Pope and Land  
Economic Development & Planning Meeting Questions  
Monday, November 19, 2007**

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**Q: Would this road be a priority if not for this development?**

A: In addition to the 100 thoroughfare projects listed in the TAP (at a cost of \$760M), the TAP also calls for over 130 miles of connector roads and local streets (at an estimated cost of \$365M) to be built. The purpose of these connector roads is to create a more connected and dense street network. While some of these new connector roads and local streets can be identified today, it was also expected that other roads would be identified and implemented concurrently with new developments. Those opportunities enable the roads to be designed to complement the adjacent land uses and to limit Right-of-Way acquisition costs. The City Park connector road is a good example of implementing a key connector road at the time that development is coming on-line. This road is a strong candidate for connector road funding given that the Coliseum area has very poor connectivity and limited collector and thoroughfare network density. The City Park connector road will provide a key connection between Billy Graham Parkway and Tyvola Road to allow more direct travel to/from the area.

**Q: If the project was still being developed as office-only would we be having this conversation?**

A: No. The office-only development would not meet the Sustainability Index criteria for mixed use development.

**Q: What is the tax differential between the original office-only plan and the new mixed use plan?**

A. At full build out, the following tax values are projected:

- |   |          |
|---|----------|
| a. Current Zoning (2M square feet office) | \$184.5M |
| b. Proposed Mixed Use Zoning              | \$624.2M |

**Q: Isn't our participation based largely upon the gap analysis?**

A: City participation is predicated on three factors: 1) The connector road being a high priority infrastructure that will improve connectivity in this area; 2) The connector road allowing a higher density development; and 3) The financing gap caused by including the connector road in the project costs.

**Q: The Yorkmont Road configuration does not look like a smooth transition – are there safety concerns with how you have it laid out?**

A: Yorkmont Road is a State-maintained facility, and therefore NCDOT has the final decision of its design, safety, design/posted speed limits and etc. Kimley-Horn is responsible for designing a safe roadway for Pope & Land. The current design of Yorkmont (at-grade Yorkmont and Connector Roads concept) can maintain the current 35 mph posted speed limit, except where Yorkmont connects with Price Lane. The current design would require the posted speed limit on Yorkmont to be reduced at this curve (with curve/speed warning signs). CDOT can support the at-grade design concept, with the understanding CDOT needs to review and comment on the final design plans to make sure the roadway configuration is acceptable to the City. For this particular design, CDOT prefers a roundabout at this intersection verses a signalized intersection.

**Q: What is the cost for putting the road underground?**

A: Previous research studied grade separating Yorkmont several years ago and came to the conclusion with CDOT and NCDOT that it was not cost effective and an at-grade intersection concept would be acceptable to all parties. Building Yorkmont below (at an underpass) the proposed connector road is not feasible. The low point in the underpass would be lower than the water table and nearby creek, therefore requiring a pumping station to insure the underpass stays dry to navigate (a very costly addition). An above grade separation of Yorkmont would be in the \$3-4M construction cost range. It would also be difficult to implement the design without requiring additional Right-of-Way unless retaining walls are used which will increase construction costs. In addition, the grade-separation option will make accessing the private properties on each side of the proposed connector road more difficult. The flow of through traffic on Yorkmont Road across the connector road should be reduced with the

connection to Billy Graham Parkway, therefore reducing the justification for a grade-separation. Division 10 NCDOT has agreed "in concept" with the at-grade solution and roundabouts to control traffic. Kimley-Horn (Pope and Land's traffic consultant) is working through the details with CDOT and the local NCDOT offices before carrying the at-grade solution forward to NCDOT's Control Access Committee (which will make the final decision of the proposed Yorkmont/Connector geometrics and their connection to Billy Graham Parkway).

**Q: Can the n/s connector road be moved over to allow for development on both sides?**

A: No because (i) the eastern boundary of the road is affected by SWM buffers and related restrictions near Renaissance Park, (ii) the property to the west of the road is under contract and has already been designed to be developed as a neighborhood for townhome uses, (iii) CDOT has minimum distance requirements between stoplights and the location of the intersection of the N/S road and Tyvola is guided by such requirements, (iv) the N/S road, the relocation of Yorkmont and the connection to Billy Graham Parkway affect the alignment and, (v) NCDOT has already reviewed and approved the traffic distribution and grid infrastructure that will connect to the N/S road as currently proposed.

**Q: What are the public benefits for this investment?**

A: There are several public benefits:

- Improved connectivity in this area allowing for more dense development
- Reduced congestion at the Tyvola Road/Billy Graham Parkway interchange
- Provides direct connection between Tyvola Road and Billy Graham Center
- Denser mixed-use development provides more property tax revenues

**Q: If the County does not participate in the greenway construction will the developer still build it?**

A: No.

**Q: What other projects would be deferred because of this investment?**

A: None. There would be no impact on the CIP.

**Q: How does this investment affect our new TIF guidelines and our new funding cap?**

A: City Council policy imposes a 3% cap on synthetic tax increment financing. This project appears to satisfy the "High Priority Infrastructures in High Priority Areas" (Section III Part A - 2) criteria and would qualify for a synthetic TIF on up to 45% of the incremental tax base.

If this project were approved, the total estimated property tax value in FY16 is expected to be approximately \$624.2M. The incremental value is estimated to be approximately \$439.7M. The revenue subject to the increment is \$2M. Applying a 45% TIF yields \$908,000 in revenue. This project would account for 7.10% of the total TIF capacity.

**Q: Can we fund the signalization and median work on Tyvola Road like we did with the IKEA project? (Reimbursement agreement)**

A: The City and the IKEA developer agreed that the developer would construct a portion of University Boulevard with the City reimbursing the cost out of funds already budgeted through the CIP. In this case, only the signalization work (and not the median work) can be funded from the CIP. We would also expect the developer to reimburse the City for the signalization at the Tyvola Road /Main Street intersection.

**Q: What is the street grid pattern for the backside of the property? Are there other access points (new) to Yorkmont in addition to the one existing connection?**

A: The latest plan is showing two connection points to Yorkmont Road (at the northwest and northeast corners of the site). Staff had encouraged the applicant to provide an additional connection to Yorkmont (adjacent to the existing Farmers Market area), but the applicant was concerned about topography constraints.

**Q: Do we get any additional undeveloped property because of the n/s connector road?**

A: The connector road requires the developer to purchase additional property along Yorkmont Road. The connector road makes this property much more likely to develop because it provides this property with frontage on both the connector road and the relocated Yorkmont Road.

**Q: Are there any costs we have not heard about (R.O.W.)?**

A: No.

**Q: What is the total ask from the City?**

A: Total ask was in excess of \$7.0M. Recommendation from City staff is \$6.31M (\$4.41M for connector road, \$1.4M for the median work, and \$500K for the Connector Road signal improvements).

**Q: Will the area have amenities for people in addition to those who live/work there?**

A: Yes. In addition to the proposed Loop at City Park trail system, the development will have a network of public sidewalks, parks and greenspaces and direct connections to the Renaissance Park fields and golf course.

**Q: Can we see the amenities for bikers in the area to see the current and new connections?**

A: This Coliseum area is difficult to access by bicycle due to the roadway designs on Billy Graham Parkway and Tyvola Road. In an effort to better accommodate bicyclists, staff believes this project's trail system provides an opportunity to enable bicyclists to use the proposed trail system to access this site and to access adjacent employment centers off of Tyvola Road. Given the limited number of driveways along Tyvola Road, staff believes a bicycle trail along Tyvola Road could be implemented in the future, connecting the City Park area to South Tryon Street. In addition, if the City Park connector road is extended beyond the site boundaries in the future, it would provide a critical north-south bicycle route through this area.

**City Park Public / Private Partnership  
Synthetic TIF Framework**

**1. Road and Right-of-Way (ROW) Costs (to be built by developer on design approved by City)**

	\$4.7 M	Cost of construction N/S Connector and relocated Yorkmont Road
<i>Minus</i>	est. .865 M	Original cost to be borne by developer for Phase I <u>neighborhood</u> cross section (versus Phase I <u>collector</u> cross section when mixed use proposed)
<i>Plus</i>	est. .575 M	Cost of ROW already purchased outside of Coliseum property plus cost of corner piece of Farmer's Market
	<hr/>	
<i>Subtotal</i>	\$4.410 M	

**2. Median Improvements (to be built by developer on design approved by City)**

<i>Subtotal</i>	\$1.4 M	Cost of Tyvola Road median improvements
	<hr/>	
<i>Total</i>	\$5.810 M	Synthetic TIF Recapture
	<hr/> <hr/>	

**3. Traffic Signal Improvements (to be built by City)**

	\$500 K	Cost of signals on Tyvola Road and Billy Graham at N/S Connector intersect (City expense)
	\$200 K	Cost of signals on Tyvola Road at City Park Main Street intersect (paid by developer to City)
	<hr/>	
<i>Total</i>	\$700 K	Traffic Signal Costs
	<hr/> <hr/>	

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

INFRASTRUCTURE  
REIMBURSEMENT  
AGREEMENT

THIS INFRASTRUCTURE REIMBURSEMENT AGREEMENT (this "Agreement"), entered into as of this \_\_\_ day of January, 2008, by and between P & L COLISEUM, L.P. , a Georgia limited partnership ("Developer"), and the CITY OF CHARLOTTE, a North Carolina municipal corporation ("City").

WHEREAS, Developer plans a mixed use commercial, retail, and residential development ("Project") at the site of the old Charlotte Coliseum, which property is more particularly described in the "Zoning Plan" (as hereafter defined) (the "Property").

WHEREAS, in order to facilitate traffic flow in the general area of the Project, Developer intends to construct certain public infrastructure on, adjacent to and in the vicinity of the Property, in the locations shown on the Zoning Plan (collectively, and as hereafter defined, the "Public Improvements");

WHEREAS, the City considers the development of the Project and other economic development impacts of the Project to be of significant public benefit;

WHEREAS, construction of the Public Improvements would not only facilitate the Project and the economic development benefits that would derive therefrom, it would also expand alternative traffic routes and provide increased connectivity to existing streets and roads in the area;

WHEREAS, the City is willing to participate in the Project through an infrastructure reimbursement agreement pursuant to Section 7.109 of the Charlotte City Code and N.C. Session Law 2001-329 by reimbursing Developer for the cost of designing and constructing the Public Improvements under the terms and conditions set forth in this Agreement;

WHEREAS, the City has determined that the cost to the City in reimbursing Developer for designing and constructing the Public Improvements is less than it would cost the City to design and construct the road through a public contract pursuant to G.S. 143-128 *et seq.*; and

WHEREAS, the City has determined that it will also undertake certain covenants and obligations as set forth in this Agreement to facilitate further traffic improvements in the vicinity of the Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Definitions.

"**Baseline Tax**" refers to the total *ad valorem* real property taxes (excluding municipal service district taxes) assessed by the City against the Property during the City's 2008 Fiscal Year, based on the finally determined assessed value of the Property for the City's 2008 Fiscal Year.

**“Base Street Costs”** shall mean the estimated cost to construct a segment of the Connector to the City’s neighborhood street standards (*i.e.*, what the Developer would construct if it were to only develop Phase 1 of the Project), which the parties agree is \$865,000.

**“Connector”** shall mean a north-south connector road to be constructed between Tyvola Road and Billy Graham Parkway and all improvements associated therewith, as shown on the Zoning Plan.

**“Fiscal Year”** shall mean the period of time that extends from July 1 to June 30th of the immediately following calendar year. For example, fiscal year 2008 extends from July 1, 2007 to June 30, 2008.

**“Maximum Reimbursement Amount”** shall mean \$5,810,000.

**“Project Cost”** shall mean the sum of (i) the aggregate cost to the Developer to construct, complete and otherwise affect the Connector (less the Base Street Costs) and the Yorkmont Relocation (including, without limitation, any amounts payable by Developer for insurance premiums, interest on any related financing, charges for design and planning, and certain other improvements required to properly facilitate traffic flow at each intersection of any public roadway with the Connector, including the intersections of the Connector with Tyvola Road, Billy Graham Parkway, and the Yorkmont Relocation) and as demonstrated to the reasonable satisfaction of the City, except to the extent directly borne by the City pursuant to the provisions of this Agreement; (ii) the Tyvola Road Improvements Cost; and (iii) the Right of Way Costs.

**“Property”** has the meaning set forth in the Recitals hereto; and **“Property”** shall also include any additional real property acquired by Developer from the City pursuant to the terms of this Agreement.

**“Public Improvements”** shall mean (a) the Connector (b) the Yorkmont Relocation and (c) the Tyvola Road Improvements.

**“Right of Way Costs”** shall mean the sum of (A) \$375,000 (the amount already spent by Developer to acquire a portion of the right of way for the Connector) and (B) the actual cost to acquire from the North Carolina Department of Agriculture the remaining right of way needed in connection with the Yorkmont Relocation.

**“Tax Increment Increase Amount”** shall mean for each applicable Fiscal Year, the amount by which (a) the City’s *ad valorem* taxes levied, and that have been paid prior to February 1, during such Fiscal Year on the Property exceeds (b) the Baseline Tax.

**“Tyvola Road Improvements”** shall mean those improvements to be made by the Developer to Tyvola Road as required by the Zoning Plan.

**“Tyvola Road Improvements Cost”** shall mean the sum of \$1,400,000.

**“Yorkmont Relocation”** shall mean the relocation of a portion of Yorkmont Road, and associated improvements to Yorkmont Road, as shown on the Zoning Plan.

**“Zoning Plan”** shall mean all site plans, technical data sheets, development standards, conditions and requirements contained as part of Developer’s rezoning petition No. 2007-82, together with such modifications thereto as are made as part of the approval of such petition by the City council.

2. Design and Construction. The Developer shall:

- a. design the Public Improvements;
- b. obtain all necessary regulatory approvals for construction of the Public Improvements;
- c. acquire all right-of-way and temporary construction easements necessary for the construction of the Public Improvements;
- d. comply with the requirements of G.S. 143-129 relating to public advertising and bid opening requirements which would be applicable if the construction contract were being awarded by the City;
- e. construct the Public Improvements in accordance with all regulatory standards and approvals, including all modifications or improvements required through normal governmental inspection processes; and
- f. upon completion of the Public Improvements, dedicate or convey, or provide for the dedication or conveyance, to the City of the Public Improvements together with those portions of the right of way thereof located on the Property.

3. City reimbursement. The City shall reimburse the Developer for all documented costs incurred by the Developer for the Project Costs as follows:

- a. Developer may request a reimbursement payment on or before February 1 of either the first, second, or third calendar year that begins following the date of final inspection and acceptance by the City of the last of the Public Improvements, as selected by Developer and City shall commence making such payments in accordance with the provisions of this Agreement for such year and for each of the nine calendar years that immediately follow the year when the first reimbursement request is made.
- b. By March 1 of each calendar year after receiving the reimbursement request pursuant to subsection (a) above, the City shall make a reimbursement payment to Developer in an amount equal to 45% of the Tax Increment Increase Amount for that Fiscal Year. The parties acknowledge that only one request will be made by Developer to commence the reimbursement payments in the first year and that no further request is needed for the payments in the nine subsequent years.
- c. Notwithstanding subsection (b) above, in the Fiscal Year in which the City's reimbursement payment would, along with the total amount of all previous reimbursement payments paid pursuant to subsection (b), exceed the lesser of (i) the Maximum Reimbursement Amount and (ii) the Project

Cost, the City shall pay the Developer only that amount necessary to make the aggregate reimbursement payments then paid to Developer, together with the reimbursement payment then due, equal to the lesser of (x) the Maximum Reimbursement Amount and (y) the Project Cost.

- d. The City's obligation to make reimbursement payments shall terminate upon the earlier of: (i) the Fiscal Year in which total reimbursement payments equal the lesser of the Maximum Reimbursement Amount and the Project Cost; or (ii) the end of the ninth Fiscal Year following the first Fiscal Year in which the City made a reimbursement payment pursuant to the terms of subsection (b) hereof.

4. Additional City obligations.

- a. The City shall, at its sole cost and expense, install, operate and maintain traffic signals at the intersections of the Connector with Tyvola Road and Billy Graham Parkway. In addition, the City shall install, operate and maintain traffic signals at the intersection of the Project's "Main Street" and Tyvola Road. The Developer shall reimburse the City in an amount equal to the lesser of: (i) the actual cost of the Main Street/Tyvola Road traffic signals; and (ii) \$200,000.
- b. In connection with the Yorkmont Relocation, and contemporaneously with the dedication of the relocated portion of Yorkmont Road, the City shall commence the process to abandon all existing right of way shown in the Zoning Plan underlying the portion of Yorkmont Road that is to be relocated.
- c. The City will allow Developer the same rights as the City would exercise if the City were undertaking such work in connection with the construction of the Public Improvements, including temporary traffic diversion, lane closures and similar matters along Billy Graham Parkway, Yorkmont Road and Tyvola Road.

5. Small Business Enterprise.

The Developer shall follow the Small Business Enterprise requirements set forth in **Exhibit A.**

6. Commercial Non-Discrimination Policy. The Developer understands that the City has adopted a Commercial Non-Discrimination Policy as set out in Chapter 2, Article V of the Charlotte City Code, and agrees to comply with all applicable provisions of said Policy.

7. Term. This Agreement shall commence upon execution and shall continue until the City has made its final reimbursement payment pursuant to Section 3. Notwithstanding the foregoing, the City may terminate this Agreement if either: (a) a building permit is issued for any portion of Phase 2 of the Zoning Plan prior to commencement of construction of the Connector;



not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

14. Entire Agreement. This Agreement is the entire agreement between the parties with respect to its subject matter and there are no other representations, understandings or agreements between the parties relative to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals ("prior agreements), written oral, except to the extent such prior agreements are incorporated by reference into this Agreement.

15. Amendment. No amendment or modification to the Agreement shall be valid in writing and signed by both parties to this Agreement.

16. Captions. The captions and headings set forth in this Agreement are for convenience of reference only and shall not be construed as part of this Agreement.

17. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be an original, but all of which shall together constitute one (1) and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ATTEST:

CITY OF CHARLOTTE

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Curt Walton, City Manager

ATTEST:

P&L COLISEUM, L.P.

\_\_\_\_\_

By: \_\_\_\_\_

Witness

This instrument has been pre-audited in the manner required by the "Local Government Budget and Fiscal Control Act".

\_\_\_\_\_  
**Finance Officer**

## **Exhibit A**

### **P & L Coliseum, L. P.**

#### **Small Business Enterprise (SBE) Participation Plan for North/South Connector Road and Tyvola Road Median Improvements**

P & L Coliseum, L.P., believes that there are many benefits when doing business with Small Business Enterprises. By purchasing professional and construction-related services, labor, supplies and materials from SBE firms, P & L Coliseum, L.P., can participate in strengthening the economic foundation of our local communities. We further recognize the North/South Connector Road (through the site of the old Charlotte Coliseum) and related improvements to Tyvola Road provides a significant opportunity to expand its involvement with local SBE firms.

#### **Policy**

P & L Coliseum, L.P., will provide equal access and opportunity for all interested SBE firms to secure contracts for the provision of goods and services related to the completion of conclusion contracts which it is undertaking. P & L Coliseum, L.P., commits to prompting the growth and development of SBEs and P & L Coliseum, L.P., shall contribute to the viability of such businesses by contracting with SBEs for goods and services, including construction services, wherever possible.

#### **Goals**

- To surpass the diversity goals established by mutual agreement between P & L Coliseum, L.P., its general contractor (the "General Contractor"), and the City of Charlotte. The SBE participation goal for this project is 6% of hard and soft project costs, exempting any land acquisition cost.
- To be recognized by outside entities as a model whereby P & L Coliseum, L.P., is both accommodating to SBE contracting community and fair in the administering opportunities under its contractor participation programs.
- To achieve diversity within SBE participation, by including minority groups represented in our community.

The effectiveness and success of this SBE Participation Plan is dependent upon several factors including: commitment by P & L Coliseum, L.P., and General Contractor, clearly communicated objectives, adequate resources. P & L Coliseum, L.P., commits to provide the resources necessary to exceed the established goals. It is P & L Coliseum, L.P., desire that this SBE Participation Plan will result in mutually beneficial business relationships between the P & L Coliseum, L.P., and General Contractor and the SBE community.

#### **Program Overview**

P & L Coliseum, L.P., and General Contractor will make contract awards to the prequalified vendors who submit a responsive and responsible bid that represents the best overall value for the project. While there will be no set-asides or mandates on this project, we will achieve the required amount of SBE participation through the following activities:

- Administer a comprehensive outreach effort and strive to communicate the significant details about this project with every SBE vendor in the City of Charlotte's database as well as other databases to which P & L Coliseum, L.P., and General Contractor may have access.
- P & L Coliseum, L.P., and General Contractor will publicly advertise and publicly open responses to solicitations.
- P & L Coliseum, L.P., and General Contractor will promote using SBE firms on all of its projects as well as strive for diversity among the different minority groups that are reflective of our community.
- P & L Coliseum, L.P., and General Contractor will work with its design partners to identify areas for SBE participation in terms of subcontract scale to facilitate using SBEs on the project.
- P & L Coliseum, L.P., and General Contractor will provide fair and equal opportunity for SBEs to participate as suppliers and subcontractors. Developer intends to use General Contractor as its construction manager and through it promote using SBE firms as both first-tier and lower-tier subcontractors and suppliers.
- P & L Coliseum, L.P., and General Contractor will encourage all first-tier firms associated with the project to demonstrate through good faith effort, that they have attempted to include SBE firms where possible.
- P & L Coliseum, L.P., and General Contractor will present a monthly report to document success and will provide at minimum quarterly reports to the City that show SBE participation.