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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Monday, April 22, 1963, at 2 o'clock p.m., with Mayor Brookshire presiding, and Councilmen Albea, Bryant, Dellinger, Jordan, Smith, Thrower and Whittington present.

ABSENT: None.

Charlotte-Mecklenburg Planning Commission members present during the Hearings on petitions for change in zoning classifications were Mr. Sibley, Chairman, Mr. Ervin, Mr. Hanks, Mr. Jones, Mr. Suddreth, Mr. Toy, Mr. Turner and Mr. Ward.

ABSENT: Mr. Lakey and Mr. Stone.

\* \* \* \* \*

INVOCATION.

The invocation was given by the Reverend F. W. Finch, Jr., Pastor of Holy Comforter Episcopal Church.

MINUTES APPROVED.

Upon motion of Councilman Whittington, seconded by Councilman Albea, and unanimously carried, the Minutes of the last meeting on April 16th were approved as submitted.

HEARING ON PETITION NO. 63-18 FOR CHANGE IN ZONING OF A LOT ON THE NORTH SIDE OF MILLBROOK AVENUE, BEGINNING 100 FT. WEST OF WALKER ROAD.

The scheduled hearing was held on Petition No. 63-18 by William H. and Joan F. Chestnut for change in zoning from R-9 to R-9MF of a lot 50 ft. x 100 ft. on the north side of Millbrook Avenue, beginning 100 ft. west of Walker Rd.

The Planning Director advised that the property is a short distance removed from Walker Road, and is on Millbrook Avenue which is an unopened street that cuts across Walker Road at a right angle; the property fronts 50 ft. on Millbrook Avenue and extends 100 ft. back and adjoins the rear lot line of property that fronts on Walker Road. The property in question is vacant and is adjoined on three sides by vacant land and on the other side is occupied by a single-family structure. The development in the immediate vicinity is single-family and within the near vicinity there are duplexes and apartments. The property is zoned R-9 and is adjoined on two sides by R-9 zoning and the side toward Walker Road is zoned R-9MF.

Mrs W. H. Chestnut, the petitioner, stated it is only the rear 50 feet of their property they are requesting rezoned, as the rest of the lot is zoned R-9MF and the zoning line goes through the lot and they would like to build three units on the property. The Planning Director stated that originally all of the lots in this block were laid out 100 feet deep and the petitioners own an additional 50 feet behind the original 100 foot depth lot. In other words, they own what was originally two pieces of property - their property on Walker Road is 100 feet deep, and what we are discussing is a 50 foot lot on Millbrook Road with a 100 foot depth.

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Mr. C. A. Barton, 4120 Walker Road, stated there are several individual property owners in the area who would like to see the zoning stay as it is. There is quite a bit of open land beyond the lot in question and the street runs three blocks in each direction and they are afraid if this property is rezoned the entire area would be changed to multiple units. That they own their homes and want to keep the area single-family; that there are some duplexes about one and a half blocks away but they do not want to see this the general trend. He advised that Churchill Downs is being developed about three blocks away and some four blocks west is McAlway Road area, both of which are single-family areas. He asked that the zoning remain as it is at present.

At the question of Councilman Jordan as to how many people are present who oppose the change in zoning, five persons stood.

Council decision was deferred one week.

HEARING ON PETITION NO. 63-19 FOR CONDITIONAL APPROVAL FOR THE STORAGE OF PETROLEUM PRODUCTS ON TRACT OF LAND ON NE SIDE OF SADLER ROAD.

The public hearing was held on Petition No. 63-19 by Texaco, Inc., for Conditional Approval for the Storage of Petroleum Products on a tract of land on the northeast side of Sadler Road, beginning approximately 900 ft. north-west of Mount Holly Road.

Mr. McIntyre, Planning Director, advised this is not a request for a change in zoning, the zoning is I-2 and is simply a request to permit oil tanks on property already zoned I-2, a hearing on which is required under a provision of the Zoning Ordinance. The property is on Sadler Road, in the oil tank farm area. He advised further that approval was recently given for the establishment of oil tanks on the adjoining property.

Mr. Garry Pittman, representing the Petitioner, stated he has nothing to add to the comments of the Planning Director and would be glad to answer any question the Council may wish to ask.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred one week.

HEARING ON PETITION NO. 63-20 FOR CHANGE IN ZONING OF TRACT OF LAND ON SOUTH SIDE OF CENTRAL AVENUE, FRONTING 160-FT. ON WEST SIDE OF ROSEHAVEN DRIVE AND 2700 FT. ON THE EAST SIDE.

The scheduled hearing was held on Petition No. 63-20 by Southeastern Land & Development Company, for change in zoning from R-6MF to B-1 of a tract of land on the south side of Central Avenue fronting 160-ft. on the west side of Rosehaven Drive and 277-ft. on the east side.

The Planning Director advised the petition covers two tracts under the same ownership located on the south side of Central Avenue and Lawyers Road, lying on both sides of Rosehaven Drive, a new street; the property is vacant except for a Sales Office pertaining to the Driftwood Acres Subdivision. That the property towards Charlotte for a distance of two blocks is developed residentially; across Central Avenue from the property the land is vacant, and diagonally across from the property the development is single-family. That on the out-of-town side of the property, it is adjoined by a Gas Station-Grocery Store combination. That the surrounding property is zoned R-6MF.

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Mr. John D. Shaw, Attorney and Mr. Sam Williams represented the Petitioner, and Mr. Shaw pointed out the location of the property on a map and stated they have over three acres, except Rosehaven Drive comes in between, which is a dedicated street. That the area consists of single-family units, multiple-family units and businesses down to the Sharon-Amity Road intersection, and they anticipate the Driftwood Acres development will consist of a population of 424, and the development to the south will contain another 404 persons. That they wish to construct a Neighborhood Shopping Center, consisting of a grocery store, restaurant, hardware store, service station, day nursery etc. to serve the residents. That they are asking for a change in zoning to B-1 Shopping Center District, which provides a more orderly developed area; however, as an alternative if this is turned down, they ask for rezoning to B-1.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred one week.

HEARING ON PETITION NO. 63-21 FOR CHANGE IN ZONING OF LOT ON THE SOUTHWEST SIDE OF CRAIG AVENUE, BEGINNING 200-FT SE OF MCALWAY ROAD.

The public hearing was held on Petition No. 63-21 by A. C. Moore, Jr. for change in zoning from R-6 to R-6MF of a lot 50 ft. x 200 ft. on the southwest side of Craig Avenue, beginning 200 ft. southeast of McAlway Road.

Mr. McIntyre, Planning Director, advised the property fronts on Craig Avenue and is only three blocks from the McAlway Road intersection with Craig Avenue; the property is vacant, and is adjoined on one side by single-family residences extending down Craig Avenue and on the other side by vacant land. Across the street from the property the development is single-family and business. That the property is adjoined on the McAlway Road side by multi-family dwellings and on the rear by R-9 zoning.

Mr. A. C. Moore, Petitioner, stated he owns two lots, each 50 foot wide, which he has owned since 1925, and the zoning comes down between the lots, one is zoned R-6MF and the other R-6. He stated it does not suit him to pay taxes on two vacant lots and he has a prospective buyer if he can get Lot 4 rezoned R-6MF, the same as the lot next to it. He advised he has been informed by a representative of the Planning Board had they known the two lots were owned by the same person they would have zoned them alike.

Mr. John Sikes, 3425 Craig Avenue, stated he lives across the street from the property in question, and he presented a Petition bearing the names of nine persons, and signed by himself, which he read:

"The following list is representative of families who reside within the 3400 block of Craig Avenue and do hereby oppose the rezoning of their neighborhood from a Residential R-9 to a Multiple Family R-6MF.

These persons have been contacted by telephone and have given their verbal consent to the use of their names on this statement.

The following are our reasons for opposing the rezoning:

1. Lower the value of our personal property.
2. Realize that such projects are predominantly transient individuals and feel this would overly congest the narrow right-of-way.

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3. City Park is adjacent to the proposed rezoning and the aforementioned congestion would be hazardous for children playing within the area.

Mr and Mrs A. Odell Steele	3426 Craig Avenue
Mr and Mrs W. B. Taylor	3431 Craig Avenue
Mr and Mrs J. H. Sykes	3425 Craig Avenue
Mr and Mrs T. L. Simpson	3432 Craig Avenue
Mrs Mable Jenkins	3401 Craig Avenue
Mr and Mrs Lester Reid	3428 Craig Avenue
Mr and Mrs G. L. Morgan *	1044 McAlway Road
Mr and Mrs A. L. Adcock	3437 Craig Avenue
Mrs Buna Hice	3436 Craig Avenue

\* property is adjoining

(Signed) J.H. Sykes, 3425 Craig Avenue"

Councilman Dellinger asked if any of these persons on the petition live adjoining this property, or immediately across the street from it or to the side of it. Mr. Sykes advised that Mr. A. Odell Steele lives next to the property, and he lives across the street.

Council decision was deferred one week.

HEARING ON PETITION NO. 63-22 FOR CHANGE IN ZONING OF TRACT OF LAND BEGINNING 1000 FT. WEST OF PARK ROAD, BETWEEN MONTFORD DRIVE AND MOCKINGBIRD LANE.

The public hearing was held on Petition No. 63-22 by Mrs Jennie P. Graham, for change in zoning from R-9 to R-9MF of a tract of land approximately 712 ft. x 375 ft. beginning 1000 ft. west of Park Road, between Montford Drive and Mockingbird Lane.

The Planning Director advised the property is the rear portion of a tract of land extending back from Park Road; it is vacant except for one residence which has been there for a number of years; that we are concerned with the portion extending back to the rear lot of property fronting on Mockingbird Lane; that along the rear property line in question there is a creek, which serves as a drainage for a wide area. The adjoining property was developed with single family units along Mockingbird Lane and the adjoining property on three sides is zoned R-9 and on one side by R-9MF. That the property does not front on any street.

Mr. Charles Henderson, Attorney for the petitioner, stated she and her two boys inherited this portion of the C. M. Graham homeplace and since then have lived on the front of the property and she hopes to use the rear portion for the benefit of herself and family and at the same time in a manner compatible with the neighborhood. Mr. Henderson presented a drawing of the structure they want to build on the property - a typical garden type 4-family unit, with playground areas and plenty of area for parking; he presented another diagram for the purpose of showing that only the back yards of the houses on Montford Drive and on Mockingbird Lane face on the property in question.

Mayor Brookshire asked Mr. Henderson how much of the property lies within the flood-plain area? Mr. Henderson stated that most of the property does not lie within the area, that the gully on the property most likely does.

He stated there are a number of residents of the area present who are likely concerned over the prospects of a structure being erected on the property, as

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they probably do not understand what is contemplated; that he would like to say that Mrs Graham and her sons will continue to live on the front of the property and she stated from the first that only the highest type building could be erected that would not affect the neighborhood in any objectionable manner, and he invited the residents present to look at the plans he has.

Mr. Arthur C. York, resident of 1227 Barkely Road, stated his property is approximately 150 feet from the property in question, and they feel the zoning should not be changed because of its effect on the resale value of their homes; too, increased hazard which would result from the floods which will be realized from the paved parking lot and the roof area.

He presented and filed with the City Clerk a protest petition and a letter from Mrs Robert Ballard, 1131 Mockingbird Lane to Mayor Brookshire, under date of April 19th, pointing out the past difficulties that have been experienced in the area and requesting that before any voting is done, the City of Charlotte make an engineering study as to whether the creek is capable of holding the additional flow of water in this area. He stated further they have two petitions, with approximately 85 names, which they request be recorded in the Minutes of this meeting.

"Mayor Stan R. Brookshire  
City Council Chambers  
City Hall  
Charlotte, N. C.

April 19, 1963

Subject: Petition #63-22 regarding Re-zoning of Graham Property from Park Road to "No-name" Creek between Mockingbird Lane and Montford Drive.

Dear Sir:

I am writing this letter with regard to the subject property fully realizing that the problem presented has little bearing on the re-zoning issue itself, but definitely is in direct relation to it.

The problem is that the drainage of this land when it is developed will undoubtedly be routed to "No-Name" creek which begins at South Boulevard and runs through Colonial Village, on through Ashebrook and Longwood Park and into Sugar Creek. I am primarily concerned with Longwood Park.

In 1956, 1957 and 1958, the residents from Montford Drive, Mockingbird Lane and all residents along the course of this creek on to Sugar Creek suffered damages to furnaces and land as a result of severe flooding of this creek. This in turn caused all the sewers in this area to flood and was declared a health hazard by the Health Department. Mr. Bivens of this Department could be contacted to verify this. In 1958, after much hard work on the part of about 150 petitioners, Mecklenburg County allocated \$6300 to be used in the dredging of this creek to alleviate this problem. At this time it was also recorded in the minutes of the County Commissioners' Meeting that the maintenance of this creek would be the responsibility of the County, and I assume that since we have become a part of the City of Charlotte, it would now therefore be the city's responsibility. After the work was done, under the direction of the Drainage Commission and Mr. Henderson Auten, it was determined that the culvert under Mockingbird Lane was not sufficient to carry the flow of water. Several of our petitioners went to Raleigh and contacted Mr. Harold Makepeace, then in charge of secondary roads. At his direction a staff of engineers made a study of this and determined that this creek drained a total of 856 acres of residential property and was not nearly sufficient to carry the load. In June of 1959, work was begun and the culvert under Mockingbird

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Lane was increased to twice its former size. Even then the creek could only be guaranteed to carry a maximum of 4 inches of rain provided there was not more water drained into it. The cost of this work was almost \$10,000.00.

Less than a month ago, the creek ran completely level with Mockingbird Lane and prior to that on several occasions has overflowed onto the street but has caused no property damage as in the past.

If the subject property is developed as single residence, the drainage problem will be acute, but as multi-family such as apartments, there would be more concreted parking areas, thus more storm drains emptying into the creek and these residents would again experience flooding and property damage.

I realize at the present time there is no regulation in Charlotte to prevent a developer from routing water onto another development regardless of the problems it may create.

I am asking at this time that the City Council have an engineering study made of the capacity of "NO-Name" Creek by the Engineering Department of Charlotte and a written report of the results be submitted to the Council for study before this re-zoning of the property is approved.

Would it not be wise to give more study to the prevention of already developed areas in Charlotte becoming flooded, rather than to worry about them after the damage has been done?

Respectfully,

(Signed)

Mrs Robert K. Ballard  
1131 Mockingbird Lane  
Charlotte, N. C.

cc: City Attorney  
Mr. Fred Bryant, Planning Commission

We, the following residents, undersigned, are in full agreement with the contents of this letter and hereby protest the rezoning of this subject property:

NAME	ADDRESS
S. N. Shepherd	1215 Barkley Road
A. C. York	1227 Barkley Road
Mrs R. K. Ballard	1131 Mockingbird Lane
Robert K. Ballard	1131 Mockingbird Lane
Russell Peithman	1101 Mockingbird Lane
Lois Peithman	1101 Mockingbird Lane
Charles C. Dunham	1021 Mockingbird Lane
Hope G. Dunham	1021 Mockingbird Lane
James H. Furr	1015 Mockingbird Lane
Helen N. Furr	1015 Mockingbird Lane
Vivian B. Saint Sing	1009 Mockingbird Lane
Clyde E. Saint Sing	1009 Mockingbird Lane
Tom M. Moore	1218 Barkley Road
Mrs Tom M. Moore	1218 Barkley Road
Bill & Betty Cribbs	1233 Barkley Road
Claude & Mary Lou Grant	1208 Montford Drive
Mrs D. C. Edwards	1234 Montford Drive
Mr. D. C. Edwards	1234 Montford Drive
Paul A. Guiles	1310 Montford Drive
Mrs Paul A. Guiles	1310 Montford Drive
Sam G. Greer	1316 Montford Drive
Mrs Sam G. Greer	1316 Montford Drive

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<u>NAME</u>	<u>ADDRESS</u>
M. Aubry Smith, Jr.	1322 Montford Drive
Irene E. Smith	1322 Montford Drive
Charles E. Davis	1328 Montford Drive
Betty K. Davis	1328 Montford Drive
Mack A. Turner	1400 Montford Drive
Mrs Mack A. Turner	1400 Montford Drive
R. M. Seymour	1432 Montford Drive
Mrs R. M. Seymour	1432 Montford Drive
Joseph F. Voynow & wife	1417 Montford Drive
Henry Kerns	1420 Montford Drive
W. G. Rimmer	1300 Montford Drive
Mrs W. G. Rimmer	1300 Montford Drive
Mr & Mrs C. H. Hubbard	4454 Halstead Drive
J. R. Hoffman	4539 Wentworth Place
David G. Kelly	1200 Montford Drive
Mrs A. C. York	1227 Barkley Road
Walter E. Laughon	1214 Montford Dr.
J. M. Mahan	1221 Barkley Road
Charles E. Jackson	1001 Mockinbird Lane
Mrs S. N. Shepherd	1215 Barkley Road
Mrs R. H. Winchester	1209 Barkley Road
R. H. Winchester	1209 Barkley Road
G. W. Michael	1109 Mockingbird Lane
A. H. Jackson	1116 Mockingbird Lane
Sylvia M. Jackson	1116 Mockingbird Lane
A. S. Long, Jr.	1200 Barkley Road
Mary W. Long	1200 Barkley Road"

"We, the undersigned residents of Mockingbird Lane do hereby object to the re-zoning of the Graham property adjacent to our property stated in Petition #63-22; on the following grounds:

That the re-zoning of this property for multi-family type dwellings, such as apartments, will de-valuate our property. We purchased our homes in good faith with the understanding that this property had a zoning restriction for single dwellings and we do not consider this re-zoning for multi-family apartment dwellings to be fair and just.

<u>NAME</u>	<u>ADDRESS</u>
Mrs Thomas Troope	1201 Mockingbird Ln.
Thomas J. Troope	1201 Mockingbird Lane
Mary E. Uttling	1200 Mockingbird Lane
Agnes Watson	1200 Mockingbird Lane
Mrs Mitchell Clark	1214 Mockingbird Lane
Mitchell G. Clarke, Jr.	1214 Mockingbird Lane
Robert E. Sing	1233 Mockingbird Lane
Mrs R. E. Sing	1233 Mockingbird Lane
Mrs H. D. Kent	1301 Mockingbird Lane
Harold D. Kent	1301 Mockingbird Lane
Mrs W. C. Davis	1325 Mockingbird Lane
Mrs W. V. Skillman	1239 Mockingbird Lane
Mrs Y. S. Gilleland	1309 Mockingbird Lane
Mrs C. R. Durracott	1315 Mockingbird Lane
W. E. Thaxton	1321 Mockingbird Lane
Mrs W. E. Thaxton	1321 Mockingbird Lane
Robert C. Kennedy	1320 Mockingbird Lane
Mrs Robert C. Kennedy	1320 Mockingbird Lane
Mrs Geo. P. Moffitt	1314 Mockingbird Lane
Mrs David F. Sigmon	1308 Mockingbird Lane

NAME	ADDRESS
David F. Sigmon	1308 Mockingbird Lane
W. W. Schliestett	1238 Mockingbird Lane
Mrs W. W. Schliestett	1238 Mockingbird Lane
G. W. Michael	1109 Mockingbird Lane
A. H. Jackson	1116 Mocking Bird Lane
Sylvia M. Jackson	1116 Mockingbird Lane "

Mrs Robert Ballard, 1131 Mockingbird Lane stated her lot faces on the creek, along with about ten others and when they built eight or nine years ago, they did so in good faith that all of the property would remain single-family residences and now they understand apartments are going up and no matter how beautiful they are, they have a certain stigma about them when you try to sell your property, or even want to enjoy yourself. That all of them live in their backyards in the summer, and cook there, and they have spent a good deal of money improving their back yard and patio, and now they will not be able to do so. She stated they have over 20% of the home owners who have signed the written protest, in fact, they have 63% on one petition. In fact, the people on the other side of Mockingbird Lane and the other side of Montford Drive have only a barbed wire fence between them and the property in question, and they are quite concerned over the prospects of an apartment being built here.

Mrs Ballard stated further that the water situation concerns them greatly, that they have had a health hazard and they worked long and hard to get the County to allocate \$6,300.00 to do something to the creek to keep it from flooding; then \$10,000.00 was spent by the State on draining the creek to keep it from flooding. She asked that the City have an engineering study make to see if the Creek can take it.

Mr. Walter B. Long, resident of the area, stated their deed restrictions read "the property of Madison Park No. 1 will remain single unit dwellings " and they were assured that no developments of any other type would be permitted built in the area; also, they have a tremendous water problem and the creek overflows and they have a very serious sanitation problem in that area and the water shed from paved parking areas contributed much to it. As for the people on Montford Drive, all but four of the residents have signed the petition, one is a personal friend of the Grahams, one was helped financially by the Grahams and the other two were not at home.

Mr. S. M. Shepherd, resident of the area, stated the people all along Mockingbird Lane and Barkley Road signed this protest petition, and ask the Council to take a hard look at this before the zoning is changed. The water question should certainly receive attention first, it is a serious thing to us on Barkley Road.

Mr. Aubrey Smith, 1322 Montford Drive, stated he is concerned over multi-family dwellings coming into their area. That surrounding the tract of land in question they own their homes and keep their property up and it is generally understood that people do not take care of apartments in the same manner. That there are playgrounds in the area where most of the children go to play, and therefore there is no need for recreational facilities in their immediate area, and the construction of this apartment will be setting a precedent in their section, which they do not want. He asked that Council accept their responsibility and think of the good of all the citizens and protect their status quo.

Councilman Dellinger asked Mr. Henderson what they propose to do about the creek, and Mr. Henderson stated he presumes a walk would be put across the creek. He stated he sincerely believes the property owners will be better off economically as a result of the proposed structure.

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Mrs Ballard said to Mr. Henderson that she understands that the lot is 1000 feet deep and the rezoning petition involves 700 feet. Mr. Henderson stated that 700 feet is already zoned and we are now talking about 375 feet. That his client is contemplating building 44 buildings of 4-family units, but they will not all be built immediately but will be constructed on a program basis.

Mr. W. E. Thackston, resident of Mockingbird Lane, stated his property backs up to the property in question; that he bought in this area thinking this was a single-family area and they would like to keep it that way.

Council decision was deferred one week.

HEARING ON PETITION NO. 63-23 FOR CHANGE IN ZONING OF THE ENTIRE BLOCK OF THE WEST SIDE OF PARK ROAD, BETWEEN HOLMES DRIVE AND HEATHER LANE.

The scheduled hearing was held on Petition No. 63-23 by Mrs G. B. Pendleton, J. Clyde Smith, F. W. Holmes and Roy E. Holmes for change in zoning from R-6MF to O-6 of the entire block on the west side of Park Road, between Holmes Drive and Heather Lane.

The Planning Director stated the petition covers property on the west side of Park Road across from the Park Road Shopping Center; that one block of the property is zoned for multi-family residences and is adjoined at the rear property lines by residential usage; that the adjoining block to the south is zoned for Offices and partially so used.

Councilman Whittington asked if all of the property owners from Heather Lane to Holmes Drive have joined in the petition and Mr. McIntyre replied that is correct.

Mr. William Abernathy, Attorney representing the petitioners, stated this is a continuation of a hearing which was commenced for Mr. Andy Watts about two months ago; that no decision was rendered at that time and the suggestion was made that they present a petition signed by all of the property owners in the block, which they are now doing. He stated he thinks this is a natural for rezoning, the reason is if you will notice the continuance of this block there are only three homes fronting on the back of this property, then you go about 200 yards down Holmes Drive and all the houses are built facing on Holmes Drive or Heather Lane, and the only homes that back up to this property are at a location he pointed out on the Map, as it is a very unusually laid out city block. He stated a new building is being erected on Park Road at the intersection of Holmes Drive, and there is also business at the other end of the property in question, and, in fact, the property is almost completely surrounded by business. In addition to that, there are three vacant lots in this block that have not been built on. He stated that some of the people who strongly objected to the erection of Offices in the adjoining block are now quite happy with them, they have found there is no business at night and they are much preferred over multi-family residences. That they are asking the Council to change the zoning of the block from R-6MF to O-6 and think it would be a benefit to the neighborhood and would be most acceptable to the residents.

No objections were expressed to the proposed zoning.

Council action was deferred for one week.

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HEARING ON PETITION NO. 63-24 FOR CHANGE IN ZONING OF TRACT OF LAND ON THE NORTHEAST SIDE OF ALBEMARLE ROAD, BEGINNING APPROXIMATELY 450-FT. NORTHEAST OF SHARON-AMITY ROAD.

The scheduled hearing was held on Petition No. 63-24 by E. T. Haney for change in zoning from R-9 to B-1 of a 1.09 acre tract of land on the northeast side of Albemarle Road, beginning approximately 450-ft. northeast of Sharon Amity Road.

Mr. McIntyre, Planning Director, stated the property is a single lot lying near the intersection of Sharon-Amity Road and Albemarle Road; the property is vacant and is adjoined by R-9 zoning. Across the street is a business establishment and a single family residence. The property is adjoined by the Good Shepherd Lutheran Church on one side and on the other by single family homes, and is zoned R-9.

Mr. Paul Ervin, representing the petitioners, Mr. & Mrs. E. T. Haney, stated the property is located on Albemarle Road 1.03 miles from the intersection of Albemarle Road and Independence Boulevard. There are four buildings between the lot in question and the intersection, two of which are business establishments. That it is the purpose of Mr & Mrs Haney to locate a furniture store on the property. He advised the property is next door to the Lutheran Church. He stated he has letters of approval from some of the surrounding property owners, excepting the Church and it is his understanding that the Church may not be in favor of this proposal and he hopes someone is here representing the Church to explain their position. That it is his opinion that it would be an advantage to the Church to have this type of structure located next door as ample parking space will be provided on the property for customers and the store not being opened on Sunday, the Church would be welcome to use the parking area. He stated that Mrs Ethel Campbell owns the property next door and has sent a letter which he filed with the Clerk stating that she approves the change for use as Business. He stated he understands Mr & Mrs Haney have filed a petition with Council requesting that a change in zoning on 17-feet on the new Albemarle Road, adjacent to the property of the Church, from residential to business. He stated further he has a letter from Mr. W. A. Yarborough, who owns the property located just across the Albemarle Road from the property in question expressing approval of the zoning change, which he read and filed with the Clerk. He stated he also has a letter from Mr. Curtis Fincher, who owns 175 feet of property on Albemarle Road, approving the change, which he read and filed with the Clerk.

Mr. Ervin stated they feel this stretch of land lying from Independence Boulevard out to the Albemarle Road, is destined to become, if not already so, a purely business area, and they think their request is most reasonable and ask that the rezoning be approved.

The Reverend Paul T. Rueckwald, Pastor of Good Shepherd Lutheran Church, located at 5301 Albemarle Road, stated their property adjoins the property in question. He presented a petition protesting the change in zoning, which he read and filed with the City Clerk, which stated the signers being more than 20% of the real property owners in the immediate vicinity of the intersection of Sharon-Amity Road and Albemarle Road, file their protest to any change in the zoning and use of the property near the intersection, and particularly the lot of E. T. Haney on the north side of Albemarle Road, from R-9 to B-1, for the reason all the property in this area is now zoned residential, there is no need for business or commercial development in this area which is now devoted to residential use, and to change the classification would create traffic hazards to the children of the residents of the area and reduce the value of the property of the residents, all for no good purpose.

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Mr. Rueckwald stated the petition is signed by four individuals in the immediate vicinity, the names of the Secretaries of the two Church property owners as well as the Chairman of the Property Committees for the Owners of the two Church Corporations, and in addition has the names of a large number of the congregation, which may or may not be relevant. He stated further it is their considered opinion that Albemarle Road is a cut-off which siphons the huge amount of traffic off Independence Boulevard which already has a big problem at the Amity-Garden Shopping Center and should there be placed a business section at the intersection of Sharon-Amity Road and Albemarle Road, an additional bottle-neck would occur and eventually a traffic light at the intersection. Too, when the two Churches have completed their facilities and are in full operation, which will involve many children and people, what kind of traffic circumstances will there be in the immediate area of this business section in relation to the amount of coming and going that will be taking place at these two churches immediately opposite each other. He stated they would like to know what a business will offer this community that would provide something in the interest and welfare of the residents, for their health, their enjoyment, their education and their safety? That the burden of proof rests not with them but with those who would complicate what is now slated to be a very beautiful residential area.

Mr. Ervin stated in reply to Mr. Rueckwald as to what the change in zoning would do for the Church, he hoped the parking area he pointed out would be considered an asset to the church; also, churches and other public institutions must be supported by the business life of the community and he thinks it is inevitable, and Mr. Rueckwald's statement confirms this, that this area is bound to be business property as business goes where the traffic goes and the area cannot remain the lovely, isolated residential section which the Pastor would like for it to be with that sort of traffic.

Mr. Prince Hatley advised his property joins Mr. Haney's on the west side and he has no objections to the change in zoning and the establishment of the business Mr. Haney has in mind.

Mr. Kenneth Renfrow, Pastor of the First Church of God, stated they have purchased five acres of property on the Albemarle Road down somewhat from the land in question and are planning to build their church facilities/<sup>there</sup> within the year. That the store planned to be erected could in a few years be sold and some business go in that would be a detriment to the area. Secondly, he understands that this area from the Sharon-Amity Road to Central Avenue is zoned R-9 and if you change one lot, which is called spot-zoning, it is not good sound planning. Thirdly, if business goes in there it will reduce the value of the personal property and he would like to go on record as Pastor of the Church to be erected, as opposed to the change; that the Chairman of his Board of Trustees and the Chairman of his Building Committee have signed the petition protesting the change in zoning.

Mr. J. G. Johnson stated he is speaking not as a property owner adjoining the subject property but as a member of the Good Shepherd Lutheran Church that it appears to him that the Planning Commission in its original zoning laws has provided amply for business in this particular area, that Albemarle Road on the westside of Sharon-Amity is zoned business and the south side of Independence Boulevard at Sharon-Amity the zoning is for business and three-quarters of a mile down Albemarle Road at the intersection of Central Avenue there is also a business area and another is at Central Avenue and Sharon-Amity Road, and he doubts seriously the wisdom of making a change to provide for a spot-zoning in this area. That if the petition is approved it will be just a short while before Council is flooded with petitions for changes all the way down to Central Avenue.

Council decision was deferred one week.

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COMPLAINT OF J. T. WATSON AS TO SERVICE OF E. J. MCKNIGHT, CHARLOTTE CONSTABLE,  
REFERRED TO CITY MANAGER FOR INVESTIGATION AND REPORT TO COUNCIL.

Mr. J. T. Watson, employee of the North Carolina National Bank, stated he gave Mr. E. J. McKnight, Charlotte Constable, a paper over a year ago for collection, and he has never collected it, never refunded his money and never made a call on the man and says he cannot find him; however, the man runs a store down here in the colored section and anybody could find him. Mr. Johnston stated he can do without his \$4.00 but he can use it too.

Councilman Dellinger asked if he had a warrant taken out for the man and Mr. Watson replied that he did not, that Mr. McKnight just took his paper in the office and said he would take care of it.

Councilman Smith suggested that the City Manager check into the matter and bring back a report to Council.

MEETING RECESSED.

Mayor Brookshire declared a five minute recess of the meeting at 3:55.

MEETING RECONVENED.

The meeting was reconvened at 4 p.m. and called to order by the Mayor.

CITY MANAGER REQUESTED TO REVIEW SITUATION AT EVERGREEN CEMETERY WITH REGARD  
TO DRAINAGE DITCH AND ADVISE AMOUNT NECESSARY TO BE BUDGETED FOR FENCING  
REMAINDER OF CEMETERY PROPERTY.

Mr. W. H. Traywick, 3837 Sheffield Drive, again appeared before Council with regard to the drainage ditch on the city's cemetery property adjacent to his property, and asked who is responsible for governing, maintaining and the supervision of public property - in this case Evergreen Cemetery?

The City Attorney replied it is obviously the owning Government.

Mr. Traywick stated he has repeatedly requested the Council to accept this responsibility. That his neighbor has been filling up a drainage ditch which is immediately behind his neighbor's property and on city owned property and when the ditch is filled the water has no alternative except flow over his yard and he is trying to stop it; that after it is filled up and covered over there is no proof of who did it.

Councilman Dellinger asked the City Attorney if it is a fact that the City of Charlotte has not changed the water course in this particular case? Mr. Morrissey replied that is his understanding from the several times that it has been brought to his attention. Councilman Dellinger stated in that case the City has no liability if the other party changes the course, if there was a change, and Mr. Morrissey replied that is correct. Councilman Dellinger stated he does not think the Council has any authority over Mr. Traywick's neighbor. Mayor Brookshire stated Mr. Traywick is saying that his neighbor has changed the course of the water by filling the ditch and that would be a matter between him and his neighbor and the Courts.

Councilman Smith stated he has been out and looked at the situation and what Mr. Traywick is saying is that his neighbor is going over onto city property and dumping trash etc in the ditch and he wants the Council to prohibit anyone from going onto city property. Councilman Smith stated he thinks some

Signs have been put up out there, and Mr. Traywick stated two No Trespassing Signs were put up, one on his neighbor's property and one on his property.

Councilman Smith recalled that Council discussed fencing the cemetery property about a year ago but deferred it for budget reasons. That it may be that the fence should be put on the City's property line to prevent people going on the property cutting trees or for any reason, to protect our own liability. That we did put a section of fence around a portion of the cemetery but it was too great an expenditure to do it all one year and it might be well to do so now.

Councilman Smith suggested that Council ask the City Manager to review the situation at Evergreen and see what amount of fencing can be included in the new budget, as fencing will be the ultimate solution to the problem and in the meantime have the ditch cleared out.

Mayor Brookshire stated without objections the matter would be referred to the City Manager as suggested by Councilman Smith.

CONSTRUCTION OF SANITARY SEWER MAIN IN OLD PINEVILLE ROAD, AUTHORIZED.

Councilman Albea moved approval of the construction of 90-ft. of 8-inch sanitary sewer main in Old Pineville Road, inside the city, at request of R. H. Wheatley Company, at an estimated cost of \$340.00. All cost to be borne by the applicant, and deposit of the full amount to be refunded as per terms of the agreement. The motion was seconded by Councilman Whittington, and unanimously carried.

STREETS TAKEN OVER FOR CONTINUOUS MAINTENANCE BY THE CITY.

Upon motion of Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, the following streets were taken over by the city for continuous maintenance:

LOCATION	FROM	TO
Domino Court	320-ft. South of Monroe Road	648-ft. S. Monroe Rd.
Havenwood Drive	90-ft. South of Woodleaf Road	Kilbourne Road
Dunaire Drive	130-ft. South of Woodleaf Road	Havenwood Drive
Eastport Road	Havenwood Drive	370-ft. S. Havenwood Dr.

R. A. BREYARE AUTHORIZED TO CONNECT PRIVATE SANITARY SEWER LINES IN ASHLEY CIRCLE TO CITY'S SANITARY SEWERAGE SYSTEM.

Motion was made by Councilman Whittington, seconded by Councilman Thrower, and unanimously carried authorizing Mr. R. A. Breyare to connect private sanitary sewer to City's System in Ashley Circle, outside the city limits, to serve one four-family apartment located at 793-799 Ashley Circle.

PAYMENTS FOR RIGHTS-OF-WAY FOR THE CONSTRUCTION OF SEWER LINE TO SERVE QUEENS ROAD, INC., AND WILKINSON BOULEVARD TRUNK LINE AUTHORIZED.

Upon motion of Councilman Jordan, seconded by Councilman Thrower, and unanimously carried, the following payments were authorized for rights-of-way for sewer line to serve Queens Road, Inc., and Wilkinson Boulevard Trunk Line:

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- (a) Payment of \$139.08 to A. M. Butler & wife, Marion B. Butler, for right of way 10' x 139.08' on Luther Street near Queens Road, for sewer line to serve Queens Road, Inc. - money already deposited by Queens Road, Inc.
- (b) Payment of \$165.72 to Marie H. Cuthbertson, Marie C. Faulkner, and J. E. Faulkner, Jr., for right of way 10' x 165.72' on Luther Street near Queens Road, for sewer line to serve Queens Road, Inc. - money already deposited by Queens Road, Inc.
- (c) Payment of \$26.53 to Charlie E. Alexander for right of way 10' x 53.06' on Wilkinson Boulevard for Wilkinson Boulevard Trunk line.
- (d) Payment of \$25.85 to P. C. Phillips and wife, Pearl E. Phillips, for right of way 10' x 51.70' for Wilkinson Boulevard Trunk line.
- (e) Payment of \$13.75 to Nell S. Quist & husband, I. F. Quist, for right of way 10' x 27.50' on Wilkinson Boulevard for Wilkinson Boulevard Trunk line.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON MAY 27TH ON PETITIONS FOR ZONING CHANGES AND THE PUBLICATION OF NOTICE THEREOF, ADOPTED.

Upon motion of Councilman Bryant, seconded by Councilman Dellinger, and unanimously carried, a Resolution Providing for Public Hearings on May 27th on Petitions Numbered 63-25 through 63-31 was unanimously adopted. The resolution is recorded in full in Resolutions Book 4, at Page 288.

#### TRANSFER OF CEMETERY LOT.

Councilman Jordan moved that the Mayor and City Clerk be authorized to execute a deed with Mrs Kathleen J. Motley, transferred from Miller and Kerns Funeral Directors, for Lot No. 71, Section 4-A, Evergreen Cemetery, at cost of \$3.00 for transfer deed. The motion was seconded by Councilman Thrower, and unanimously carried.

#### CONTRACT AWARDED SUPERIOR STONE COMPANY FOR CRUSHED STONE.

Upon motion of Councilman Thrower, seconded by Councilman Albea, and unanimously carried, contract was awarded Superior Stone Company, the low bidder, for 156,000 Tons of Crushed Stone, as specified, on a unit price basis, in the amount of \$305,230.20.

The following bids were received:

Superior Stone Company	\$ 305,230.20
Nello L. Teer Company	328,183.75

#### DISCUSSION OF SUGGESTION THAT COUNCIL ARRANGE MEETING WITH COUNTY COMMISSIONERS AND MECKLENBURG REPRESENTATIVES TO THE LEGISLATURE TO DISCUSS THE TAX REVALUATION PROGRAM

Councilman Whittington stated in connection with the tax revaluation he would like to suggest that the Council and County Commissioners set a meeting for next Saturday morning and invite the Mecklenburg Legislators to meet with us, along with the City Attorney, City Manager and Mr. Livingston of the Accounting

Department and any group that the County Commissioners would want to invite, for a discussion of the question; he stated he says this because he is confused and is sure many of the public is confused and at this point he does not believe anybody knows what is going to take place and it would seem to him that all three Bodies should get together, as we all have a stake in the matter, and have an understanding of what is to be done by the Legislature and what the County Commissioners and City Council could expect.

Councilman Alba stated the City Council legally has nothing to do with the matter. That he wants the public to understand the Council legally has nothing to do with it, and it is the responsibility of the County Commissioners and he does not know whether he would want to attend such meeting, and is not sure the Council should mix in it.

Councilman Smith stated he does not think it would be wise to get in the middle of the matter; that he will sit in on such meeting if Mr. Whittington wants it but does not see any point in doing so as the City has nothing to do with it.

Councilman Jordan called attention to the invitation, which he stated he has accepted, to the meeting at 10:30 Saturday morning from the Trade Fair people and Governor. Mayor Brookshire stated the Trade Fair opens next Saturday morning and he could not wedge anything else in on Saturday morning.

Councilman Dellinger stated he had a telephone call this morning from a gentleman who said he represented our members to the Legislature and it was their hope that the City would not take any part in the matter, and he asked the gentleman why he did not contact him himself and he said he was preoccupied. Councilman Dellinger stated further that the Council was approached by the County Commissioners several years ago about the revaluation program and the Council told the Commissioners if they would allow the Council to help select the people qualified to do the job, the City would contribute to it, and the Commissioners replied they were going to do the work with their forces and they did; therefore, the Council had nothing to do with it and it is the County's problem and he does not think that Mr. Whittington's suggestion would be receptive to our Representatives, and he thinks we should let the County Commissioners and Representatives fight it out, but if the Council feels so disposed we might advise the Representatives.

**CITY MANAGER REQUESTED TO CHECK ELEVATION OF DRIVEWAY INTO LIBRARY ON QUEENS ROAD.**

Councilman Dellinger asked the City Manager to check into the driveway on Queens Road going into the Library, which does not have the right elevation and several complaints have been made about bumpers dragging on the concrete going into the driveway.

**CITY MANAGER REQUESTED TO CHECK INTO SEPTIC TANK PROBLEM AT 5601 DONCASTER DRIVE AND SEE IF STREET SO POPULATED AS TO HAVE SEWERS INSTALLED IN STREET.**

Councilman Dellinger advised he had a call from Mrs James C. Fair, Jr. at 5601 Doncaster Drive, saying they had a septic tank problem; he stated further it seems to him this street is populated to the extent that the City might be able to furnish sewers in the street. He asked that the City Manager have the Engineering Department check into the matter and see what the problem is and what can be done.

CITY MANAGER REQUESTED TO LOOK INTO EXCESSIVE TRAIN WHISTLES AT NIGHT.

Councilman Dellinger referred to the City Manager a letter he has received from Mr. Edward H. Graham, 216 West 10th Street, relative to the long and loud and excessive train whistles in the night; he asked the City Manager to look into the matter.

CONCERN OF CITY COUNCIL OVER OUTCOME OF TAX REVALUATION QUESTION EXPRESSED.

Councilman Bryant stated just so there will not be any misunderstanding by some people that the Council is not interested in the tax revaluation question - and he believes every member of Council is interested - he thinks the position is well taken that it is not within the Council's jurisdiction to become involved actively in it but that they are by no means sitting back with their hands folded without any concern about it. That he thinks Mr. Whittington is exactly right to make an effort toward some sort of meeting of minds, however he does not think Council should go far, but besides that point, the Council certainly is concerned for what it could do to the City and we stand willing to make any effort that we can to straighten the situation out. He stated he thinks he would speak for more than himself when he says that.

Mayor Brookshire stated the fact does remain that Council will have to take whatever tax base results and on that basis a tax rate will have to be set for next year, and he thinks that is all Council can do in the matter.

Councilman Dellinger advised that our Delegation is plowing deep on this question and he believes they are going to change the Bill and come up with a modified Bill or the Legislature is going to kill it.

TRANSFER OF FUNDS FROM WATER DEPARTMENT CONTINGENCY ACCOUNT TO MAINTENANCE OF WATER MAINS ACCOUNT.

Councilman Whittington moved approval of the transfer of \$2,500.00 from the Water Department Contingency Account to Maintenance of Water Mains Account, for use for the repair of certain raw water lines. The motion was seconded by Councilman Thrower and unanimously carried.

TRANSFER OF FUNDS FROM GENERAL FUND CONTINGENCY FUND TO COMPENSATION FUND FOR PAYMENT OF TWO AWARDS MADE BY NORTH CAROLINA INDUSTRIAL COMMISSION.

Motion was made by Councilman Albea, seconded by Councilman Thrower, and unanimously carried, authorizing the transfer of \$1,593.01 from the General Fund Contingency Fund to the Compensation Fund, for payment of two awards made by the North Carolina Industrial Commission, as recommended by the City Manager.

ADJOURNMENT.

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

*Lillian R. Hoffman*  
Lillian R. Hoffman, City Clerk