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The City Council of the City of Charlotte, North Carolina met in regular session on Monday, December 19, 1977, at 8:00 o'clock p.m., in the Board Room of the Educational Center, with Mayor Kenneth R. Harris presiding, and Councilmembers Don Carroll, Tom Cox, Jr., Charlie Dannelly, Laura Frech, Harvey B. Gantt, Ron Leeper, Pat Locke, George K. Selden, Jr., H. Milton Short, Jr. and Minette Conrad Trosch present.

ABSENT: Councilmember Betty Chafin.

Also sitting with the City Council, and as a separate body, were members of the Charlotte-Mecklenburg Planning Commission during the hearings on Zoning Petitions. Present were Chairman Tate, and Commissioners Broadway, Campbell, Curry, Jolly, Kirk, Marrash, Royal and Tye.

ABSENT: Commissioner Ervin.

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#### INVOCATION.

The invocation was given by Reverend F. Herbert Weber, Pastor of Little Church on the Lane.

#### MINUTES APPROVED.

Upon motion of Councilmember Locke, seconded by Councilmember Selden, and unanimously carried, the minutes of the last meeting on Monday, December 12, 1977 were approved as submitted.

#### PROCEDURES TO BE FOLLOWED DURING PUBLIC HEARING ON ZONING PETITIONS.

Mayor Harris advised that Council will abide by the rules as set out in the Council agenda. There will be ten minutes to either side of the argument. Tonight there are five or six speakers on one item, and the total time will be ten minutes for that side of the argument, and they may want to get together and present the facts as a group.

#### HEARING ON PETITION NO. 77-59 BY PINEVILLE LAND COMPANY TO CHANGE THE ZONING OF PROPERTY FRONTING ON THE SOUTH SIDE OF SHARON ROAD WEST, LOCATED EAST OF THE INTERSECTION OF SHARON ROAD WEST AND PINEVILLE ROAD.

The scheduled hearing was held on the subject petition to change the zoning from R-9MF to I-1. Council was advised that a protest petition had been filed and was not sufficient to invoke the 3/4 Rule.

Mr. Bryant, Assistant Planning Director, stated the request is to change from a multi-family classification to a light industrial classification which would allow most of the business and industrial, as well as light manufacturing, warehousing, and so forth.

The property is located on the south side of Sharon Road West, east of South Boulevard, and consists of over two acres. The property is predominately vacant with one single family dwelling located on the property in the westerly corner. There are predominately light industrial types of activities to the south of the property. On the westerly side is a parcel of land used for a convenience food store; and west of that is a combination of office and light industrial types of activities. To the east is a series of single family residential uses which extends away from Sharon Road, along Sharonbrook Drive. Immediately adjacent is a lot with a single family structure; to the north, and across Sharon Road West is an apartment grouping; further east are single family uses. To the west along Sharon Road West is another convenience food store. He pointed out the Terrell Machine Company property adjacent to the property; the Wilmoth Hospital site; to the west of South Boulevard the Lance facility.

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The zoning pattern was explained by Mr. Bryant, who stated the property is now zoned R-9MF. Everything from the subject property east along both sides of Sharon Road West is now zoned R-9MF. To the west of the tract is I-2, a heavy industrial classification which extends generally along both sides of South Boulevard; it also extends some distance back from South Boulevard; there is a band of I-1, light industrial zoning, which extends along the west side of the lot along Sharonbrook Drive. There is some B-2 zoning located north of Sharon Road and west and east of South Boulevard.

The subject property is generally related to R-9MF on two sides, and the industrial zoning on the other two sides. The request is to extend the band of I-1 zoning out to Sharon Road West.

Councilmember Gantt asked why the I-1 zoning is there without any access? Mr. Bryant replied it is all under one ownership; and that was part of the pattern worked out at the time the entire parcel was zoned for industrial purposes; the ownership extends all the way out to South Boulevard; the use circumstances observed by the owner is compatible to the I-1 and it was installed as a little bit of additional protection for the residential uses.

Mr. Bryant then presented slides of the area showing the land uses.

Mr. Stuart McKay, 3022 Wachovia Center, stated he is an attorney with the firm of Edwards and Warren, and is present in behalf of the owner of the property, Pineville Land Company.

He stated the owner of the property is a partnership whose partners are the principals of Terrell Machine Company. It is not owned by an absentee landlord but by the principals of Terrell Machine Company who have a very viable and continuing interest in the entire tract of property. Pineville Land Company has owned this property for ten years and has developed it in a very slow and deliberate fashion; from Old Pineville Road he believes it is the most attractive business and office facility from Sharon Road West all the way in. They have more landscaping and grass between the Terrell Machine Company building to the street than all the other business properties on South Boulevard.

At present there are two buildings on the tract; the first building is an office and business use; and the building in the rear is used for light manufacturing and basically assembling large machines to the textile industry. There is very little traffic flow; they do not move machines very often.

Mr. McKay stated they would like to extend the I-1 buffer zone all the way to Sharon Road West, which they believe will be consistent with the existing zoning. Pineville Land Company has developed the property in a responsible manner, and they believe they have excellent relations with neighboring land owners.

Councilmember Selden asked if they have set a proposed use of the property? Mr. McKay replied no; they do not have any short term or long term use other than to resolve the zoning situation which is now disjointed because part of the property is I-2 and I-1, and then the R-9MF. There are no existing or future plans at this point in time for that tract.

Councilmember Leeper asked if the single family residential parcel is a part of the ownership? Mr. McKay replied it is presently being rented; it is owned by Pineville Land Company.

Councilmember Short stated since residences are not allowed in an industrial zone what would be the situation with reference to that residence? Mr. Bryant replied it would become non-conforming, and could remain as it is. If it is ever demolished another residence could not be built there. Mr. McKay stated they have delayed this petition in order to cooperate with the people who are renting the property.

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Councilmember Dannelly stated Mr. Bryant indicated that coming south from the eastern portion, there are some residential houses, and he asked what kind of buffer there is between that parcel we are talking about, and the other residential area? Mr. McKay replied there is a lightning facility at the rear of the property and it is zoned I-2; at present 300 foot band of I-1 has no building on it; there is a fence and an embankment, plus 300 feet which divides what appears to be the property; this is not the actual property line, but is the usage line from those residential homes on Sharonbrook.

Councilmember Dannelly stated if the property is rezoned to I-1 all the way to Sharon Road West, what type buffer will separate that development from the residential homes? Mr. McKay replied he cannot answer that as he does not know what development will take place on that property; it may continue to be the 300 foot buffer zone, or it may not; he does not know how the property will be developed.

Councilmember Gantt stated the truth of the matter is that I-1 with no development on it might be considered a buffer zone; I-1 developed might not be considered a buffer. He stated he has some difficulty understanding his point of why he needs the property rezoned for further development when in fact he says the I-1 property has no development on it now. It is causing some difficulty in his mind when you view the street scap as you leave South Boulevard where there is business development and then a very definite pattern of multi-family and single family residential. It would help him if he had some information as to what they intend to do with that portion that abuts the Sharon Road West tract.

Mr. McKay replied he understands the question; but he cannot speak for the development.

Mr. Virgil Foster stated he is Vice President of Sinco and Reidco; Reidco is the general partner of the partnership that owns the apartments across the street directly in front of the land the petitioner is requesting rezoned.

Mr. Foster referred to several charts and stated the land to the right is the Sharon Road West apartments; the land directly across the street is the land proposed for industrial use. The entry and egress to their apartments is in the center of the land proposed for rezoning. They oppose the rezoning request because of the ingress and egress; second, they believe a person's home should be a nice place to live and industrial zoning adjacent thereto does not help enhance the value of the property, or make it a nicer place to live. This would mean this property would be faced on two sides by a convenience store going towards Pineville Road on the right, and directly in front by an industrial zoning, which would be the two sides of the apartment complex to be covered either by industrial or business zoning.

Mr. Foster stated they believe the area should be maintained as R-9MF as it is presently zoned. He passed around several photographs stating they show the location of the house in question; it shows the entry and egress into the apartment complex. If the land across the street is zoned industrial it would make a very bad place of entry for the children in the complex; it would pose a danger problem.

Mr. Foster filed a petition signed by all but five of the residents of the apartment complex objecting to the rezoning. The petition stated the signers strongly oppose the petition of the Pineville Land Company on Petition No. 77-59 to change the existing R-9MF zoning to I-1 zoning. The Sharon Road West apartments are their homes and they desire to keep the property around them zoned multi-family residential; that the area being petitioned to change is directly in front of the entrance to the apartments; they believe a person's home should be a nice place to live with surroundings that are consistent with that philosophy; that they have nice apartments and they desire to protect their surroundings.

Mr. Foster stated they hope the City Council and Planning Commission will allow this apartment complex to remain with a frontage which is zoned residential multi-family.

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Mr. McKay stated it is significant to note the property which they believe is most affected by the proposed change is the adjacent property, and is the property on the east where the residential development is along Sharon Road. They notified these residents in advance what they planned, and they have tried to be good neighbors to those citizens; they have cooperated and he believes the fears which have been pointed out across the street are not as significant as the concerns of the people on the adjacent property, and they have no objections.

Councilmember Selden asked if in considering the potential development did they give any consideration to petitioning for a B-2 zoning as opposed to I-1? Mr. McKay replied they gave that serious consideration; they believe it is impractical to develop that as residential property; they believe it would be most reasonable to make it I-1. As far as the usage goes the adjacent property to the west is used as Mr. Selden says; that would be a distinct possibility if they cannot get the other.

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

HEARING ON PETITION NO. 77-58 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO AMEND THE TEXT OF THE ZONING ORDINANCE AS IT RELATES TO DIMENSION REQUIREMENTS AND SIGNING WITHIN THE URBAN RESIDENTIAL (UR) ZONING DISTRICTS.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is a proposal to add to the wording of the zoning ordinance text itself. The Urban Residential District which is affected by this proposed change are those districts formulated some time ago with particular reference to the Fourth Ward Area, and the efforts to rejuvenate that vicinity of the central part of the city. It was felt as a part of the effort to bring about some considerable change in that area there was a need to establish a new concept of residential zoning districts. This was done and was enacted as a part of the total package related to the Fourth Ward Area.

While the Urban Residential District will not be limited in its application to only the Fourth Ward Area, at the present time that is the only location where the UR district designation is present on the zoning maps. The addition which is proposed is not as difficult as the text would lead you to believe. The first page is a re-statement of what is already in the ordinance. The only real change proposed on Page 1 of the text is in the first paragraph under the chart. That is a new paragraph which is proposed to be installed into that section of the ordinance for the specific purpose of making available a type of development potentially for the Fourth Ward Area which is presently not allowed. This is a townhouse for sale type of development. When the initial draft of the UR District was established the townhouse concept was installed as an allowed use; but the minimum lot area is described as 5,000 square feet. You are not going to get townhouse for sale as a design concept with a 5,000 square foot lot size. The new paragraph proposes to provide for the development of property on a more reasonable basis, related to the townhouse for sale concept. Mr. Bryant referred to a chart to illustrate what is involved.

The major thrust of the amendment is to allow flexibility of the design of the development whereby it would be possible to utilize the townhouse for sale concept on either a potential common open space system, or where it is all divided into allotted areas. Each of these would be subject to the normal standards of floor-area ratio control, which is a form of control which stipulates the relationship between the land area and the building size.

The second major part of the text change is on Page 2 beginning at the bottom with Paragraph 4 which proposes to install some sign regulations for the UR districts. At the time of the UR district it was overlooked that there would be a need for separate sign regulations for these districts. This proposes to install the regulations which would recognize the validity of different types of signs in the UR districts, and prescribe standards for each of them. There has been a special provision put into the sign regulations dealing with kiosks, the type of sign which is self-supporting which could be used for general neighborhood

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information not necessarily business advertisements or anything of this sort. This type of sign could have on it a variety of general public information which would be helpful in the situation where you have the mixed uses of Fourth Ward, as well as the areas around it.

The two primary areas of the content of this text amendment is to allow the form of physical development in the area and at the same time to establish sign regulations for the UR district.

The Fourth Ward area is under the dual control of zoning regulations and the redevelopment plan. The Fourth Ward area has been designated, not only an historic district, but a redevelopment area in order to benefit from some funding possibilities for improvements to that area. The control of that area development-wise is under the jurisdiction of both the zoning regulations and the redevelopment plan. We can amend the zoning ordinance through the process we are going through tonight; but effectively it will later require an additional amendment to the redevelopment plan itself to recognize these changes.

Mr. Bryant stated the Community Development Department does plan to propose similar changes to this in the redevelopment plan very shortly.

No one spoke for or against the petition.

The petition was referred to the Planning Commission for recommendation.

HEARING ON PETITION NO. 77-60 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO AMEND THE TEXT OF THE ZONING ORDINANCE AS IT RELATES TO DRIVE-IN SERVICE WINDOWS AS ACCESSORY PARTS OF PRINCIPAL STRUCTURES.

The scheduled hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is an outgrowth of a previous matter concerning a proposal to rezone some property located on Woodlawn Road at Montford Drive. Property in that area is zoned B-1 which is basically a retail classification and has some limitations as it affects drive-ins and what we normally think of as restaurant drive-in facilities. The request was to change the zoning to B-2 in order to allow the petitioner to utilize a drive-in service window. It was not felt appropriate to change the zoning of that property as it involved another consideration beyond the one that was stated at the time. It was felt this was an area that needed investigation.

He stated the concept of drive-in service has changed considerably over the last years. At one time, the concept of drive-in service restaurant was of curb service where you had a considerable amount of noise and automobiles. At the time this was regulated to a B-2 classification. Since that time circumstances have changed. Today you have situations where you can drive up to a restaurant facility, place your order over a radio type communication, and then drive on and pick up your order from a service window, and then go on your way. Also the old way you normally stayed there and ate your food. Under this concept there is nothing to encourage you to stay and eat in your automobile, but it is designed to go.

There are other forms of drive-in facilities which are occurred over the years - the bank drive-in facilities and many others.

The amendment proposed is an outgrowth of that study and deliberation. It proposes to install into the zoning ordinance a definition for a drive in service window; it is proposed to recognize a drive-in service window as a legitimate accessory use in all office and business districts. Finally it is proposed to install the following restrictions on the approval of drive-in service windows: It will be required that the plan for the proposed drive-in facility be approved by the Traffic Engineering with such approval to be granted if the Traffic Engineer determines the drive-in window and its associated operational characteristics will not create a traffic hazard either with respect to traffic congestion, the adequacy and safety of ingress and egress points and the on-site vehicular circulation pattern.

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Mr. Bryant stated this is an attempt to give some attention to the matter of traffic congestion which is normally the biggest problem associated with drive-in service windows. They feel this is a reasonable sort of amendment to consider in light of today's development trends, and it is a better way of treating it than relating to the old curb service type of activity.

Councilmember Short asked how this would apply to office zones? Mr. Bryant replied the drive-in bank has always been allowed as an accessory type of operation in the office district; but this would propose to recognize it as a legitimate accessory facility to the principal use; and through this process allow the examination of even bank drive-in facilities for the Traffic Engineering Department to determine whether or not there is a problem, which is not possible at present.

Councilmember Short stated it would have more control and would be more restricted.

No one spoke for or against the petition.

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

HEARING ON PETITION NO. 77-61 BY COMMUNITY DEVELOPMENT DEPARTMENT TO CHANGE ZONING OF PROPERTY ON THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH CHURCH STREET AND WEST MOREHEAD STREET.

The public hearing was held on the subject petition for a change in zoning from I-3 to B-3.

The Assistant Planning Director stated the request involves property which is part of the West Morehead Street Target Area Plan. This area has been delineated a target area for redevelopment purposes, and a plan was approved sometime past by the City Council relative to the design objective and use objective for that area.

The proposal for the change is the beginning process to relate zoning regulations to the plan which was approved at that time. The proposal tonight is for only a limited amount of area located on West Morehead Street, between Church Street and Tryon Street. The subject property is that portion of the block extending from Church Street down to the rear of the lots that front on Tryon Street. The change proposed is from I-3, an industrial district which exists only in the vicinity of the central area city, to B-3 which is the business designation for the CD area. All the Central Business area is zoned a B-3 classification.

Much of the property is vacant with an area at the corner of Church and Morehead designated a commercial parking facility. Middle portion of the property is vacant, and the remaining portion of the property in the direction of Tryon Street being occupied by a parking area associated with an automobile repair. Generally the area is commercial in nature around the subject property. There is still some residential uses on Jasper and about two or three houses located at another point.

He stated all the property on the west side of Church Street is zoned I-3 and all the property adjacent to the tract and running out to Tryon Street and extending back to Jasper in the direction of the central area of the city is B-3; there is some I-2 zoning on the south side of West Morehead Street.

Mr. Bryant then presented slides of the area .

Mr. Vernon Sawyer, Community Development Director, stated they initiated the petition to bring about a more consistent land use and zoning pattern in that whole area between Tryon Street and Church Street, extending from Brevard Street on north to Morehead Street on the south; and even further but changing from Church Street to Winnifred Street down to Independence. That whole area is B-3, and this is an I-3 intrusion into that which is inconsistent with the approved redevelopment plan. That is the purpose of the petition. It is not in an area where they are acquiring land, or intend to acquire land; but is within the project area, and the whole area is their concern.

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Councilmember Leeper asked if the residential parcels are a part of the Community Development property? Mr. Sawyer replied they are within the Community Development Project boundary, but not in an area where there is money at the present time to bring about any improvements. Their improvements are concentrated in that area generally south of Independence Boulevard. Councilmember Leeper asked if the residential houses belong to the City? Mr. Sawyer replied they do not; that we own no property in the vicinity of this area.

Councilmember Short asked how this become industrial? Mr. Bryant replied he does not recall any unusual circumstances associated with it; the industrial zoning which was established in the other area was done so because of some uses that existed in the area; it may have been felt at that particular time that this had more relationship to industrial use than it did to downtown.

No opposition was expressed to the proposed change in zoning.

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

HEARING ON PETITION NO. 77-62 BY W. HARRY PAGE TO CHANGE ZONING ON PROPERTY FRONTING ABOUT 100 FEET ON THE EAST SIDE OF BANK STREET, LOCATED ON THE SOUTH-EAST CORNER OF THE INTERSECTION OF BANK STREET AND FOSTER AVENUE.

The scheduled hearing was held on the subject petition to change the zoning from R-6MF to I-2.

Mr. Bryant, Assistant Planning Director, stated this is a small parcel of land located at the intersection of Foster Avenue and Bank Street.

He stated the Marie Davis School is located in the general area along with the John F. Kennedy Junior High School; the Southside Homes are located in the area with frontage on South Tryon Street and Griffith Street.

From Griffith Street moving southerly there is a rather drastic change from the Southside Homes Apartment area to what is a predominate light industrial warehousing distribution type of activity in the general vicinity of Griffith, Foster, Bank, and some of the other streets in the area; to the south of the map is Clanton Road.

He stated the area is west of South Tryon Street, and the subject property is vacant; on the South Tryon Street side it is generally associated with a variety of light industrial and warehousing distribution types of activities along Maye Street, along Foster Street and one on Bank Street. On the south side of the property are three duplexes, and then an apartment group at Bank and Herman Avenue; directly across from the property are apartment structures then a Metal Stamping operation; then begins the school property with its entrance to Kennedy Junior High. The subject property is generally related to industrial uses, light industrial on two sides, and some residential uses on one side and a combination of residential and light industrial on the other side.

Mr. Bryant stated to the south of the property along Bank Street there is a continuation of the R-6MF pattern and a combination of I-2, I-1, and R-6MF along the westerly side of Bank Street so that the subject property is associated with industrial zoning on three sides and the R-6MF on the other side. This area is part of the Southside Community Development Target Area. A plan of development has been approved for the area. This request is not being sought by the Community Development Department but by the owner of the property. The Southside Redevelopment plan calls for this property to be changed from residential to I-1, not I-2 as requested by the petitioner.

Councilmember Locke asked how long ago the I-1 was placed on the property directly across from the subject property? Mr. Bryant replied somewhere in the vicinity of the last five, seven or eight years; it was added after the other was done.

Mr. Bryant then presented slides of the area showing the land uses.

Councilmember Short asked if there is an I-1 area across the street with two apartments on it? Mr. Bryant replied that is right, and they are non-conforming; they were there prior to the zoning change. That this whole street is planned for I-1 in the plan for the area.

Mr. Sawyer, Director of Community Development Department, stated he would like to register opposition to the requested I-2 zoning, but they have no objection to I-1. That the petitioner is asking for a change to I-2 in an R-6MF district. That his Department is going to propose at a later time that this I-2 zoning be changed to I-1 as they feel Foster street would be a more reasonable and logical boundary for the change in the two districts. That is consistent with the redevelopment plan.

Mr. Bryant stated the most unfortunate thing about the area is that it serves as the entrance to Kennedy Junior High School. That in the distant past they have talked to the school people about utilizing some of the other property for a more appropriate entrance-way. He hopes some day that will be possible.

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

HEARING ON PETITION NO. 77-63 BY NEVINS CENTERS, INC. TO CHANGE ZONING FROM R-9 TO INSTITUTIONAL (CD) WITH A SPECIAL USE PERMIT TO ALLOW EXPANSION OF A FACILITY FOR TRAINING DEVELOPMENTALLY DISABLED CITIZENS, ON PROPERTY FRONTING ON THE NORTH SIDE OF NEVINS ROAD, EAST OF THE INTERSECTION OF NEVINS ROAD AND STATESVILLE ROAD (US HIGHWAY 21).

The scheduled hearing was held on the subject petition.

The Assistant Planning Director advised the subject petition relates to the Nevins Center Use activity; it is located on Nevins Road on the north side of the city. The objective of the change is to recognize the use which is already there, and through a proper zoning designation of Institutional to provide for an expansion of that facility.

He stated sometime ago there was approved the use of Community Development funds for the purpose of building a new building on that site. It is proposed that a portion of the property be transferred to the City of Charlotte for the purpose of being able to use Community Development funds for the new building. In order to effectuate that from a zoning standpoint it requires at least an Institutional type zoning with a special use permit allowing the type of activity which is centered on the Nevin operation.

The property is vacant with the exception of the portion which is occupied by the building; in the general vicinity there is predominately vacant land on three sides of the property; there is a scattered configuration of single family housing along Nevins Road. Basically it is a scattered land use.

The zoning is predominately R-9. All the land in the general vicinity is zoned R-9. The closest non-residential zoning is a B-2 pattern which exists along Statesville Road.

Since it involves a special use permit it is necessary to have an exact site plan required for the development of the property. He referred to the site plan pointing out the existing building and pointed out the location of the proposed new building with associated parking. They propose to improve the access and the parking facilities on the west side of the property with the remaining portion to remain vacant. There are some long range plans which may call for some additional buildings but it is not part of the current proposal.

He pointed out the portion of the property to be transferred to the City of Charlotte.

Mr. Phillip Gerdes, President of Nevins Center, stated they are requesting rezoning to allow the expansion of Nevins workshop. Appearing with him were a number of people who serve on the Board, along with the Director of Nevins and the Workshop Manager.

He stated the Mecklenburg County Mental Retardation Advisory Board and the Area Mental Health Program Finance Committee have approved of this request. He stated last January they made a special request to the City Council to use Community Development Block Grant funds to expand the facility; and the Housing and Urban Development Department through a recent change allowed community development funds to be used for this purpose recognizing the tremendous need that

existed for developmentally disabled workshops in the community. This is one of the few communitywide programs that community development funds can be used for, and they recognized this. This enables them to do the job they cannot do otherwise.

Mr. Gerdes then gave a brief history of Nevins stating they are currently serving about 127 mentally retarded people and this will enable them to increase their capacity to approximately 225. They have identified three to four hundred mentally retarded people in the community who could use this service. About 100 of those come from the Target Areas, and their needs will be served first. Approximately 65 of the clients are black, 62 are white; 90% of the clients are over 21 years of age with no place else in the community for them to go; roughly they are half male and half female. They fall into the moderately retarded category with their IQ ranging from 35 to 60; most in the 40 to 50 IQ range.

He stated they provide a variety of services for them; some workshop training, and they try to put them into the community in employment if they can. They placed more in the community last year than ever before. They have grown from 90 clients to approximately 127 in the last 36 months, and they are bursting at the seams. State regulations allow them only to serve one client to every hundred feet of floor space; they can serve 125 and they have 127; they have been able to put enough out into the community to create more space. The State is sending these people back from the centers to the community, and it has put a crunch on them. Also the population is growing, and there will be a need to place about 30 to 35 a year in some type of facility for the next six to seven years. They currently have approximately 16,000 square feet of floor space, and this will add an additional 10,000 square feet. Most of the space they have now is broken down into the cafetorium and into the old school building which is 75 years old; they want to save the old building to serve as a reminder to the community of what can be done by adding and trying to build a worthwhile program, making existing use of old structures and adding as we go along.

Mr. Gerdes stated other local communities have provided local tax dollars to do the same thing we are doing here with a combination of federal community development funds and private funds. If this action were not taken now, it may be necessary in the future for local government to do the job with local tax dollars through a bond issue or annual supplement. By making use of available non-local public support dollars for this project they can meet an immediate and pressing need as well as help provide a long term solution for a problem that is becoming more acute.

He stated they hope their request to allow zoning to conform with present uses will meet with favorable approval.

Councilmember Short asked why they have the conveyance to the City? Mr. Gerdes replied HUD requires it; they require that for public funds under the community development to go into the facility have to be owned by the public. They have a lease that has been prepared back to Nevins so they can contract to do the service, deed the property to the city so the taxpayers will be the owners of the property. They will build the building under the guidance of the Community Development Department and certain contractual obligations.

No opposition was expressed to the proposed change in zoning.

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

HEARING ON PETITION NO. 77-64 BY THE HOWEY COMPANY, INC. TO MODIFY A PLAN FOR AN EXISTING RESIDENTIAL PLANNED UNIT DEVELOPMENT (R-PUD) IN AN AREA LOCATED BETWEEN LITTLE SURGAR CREEK AND PARK ROAD AND FRONTING ON THE NORTH SIDE OF SHARON ROAD WEST.

The public hearing was held on the subject petition for a modification in an existing R-PUD in an R-12 district.

Mr. Bryant, Assistant Planning Director, stated the subject property is located

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on the north side of Sharon Road West, and west of Park Road. Generally the area is vacant except for the portion of the plan which has already been developed. The property is zoned a single family R-12 with the R-PUD designation added to it.

He referred to the site plan and stated the existing site plan is approved for development of the property. It consists of single family uses for the middle segment with various types of attached housing approved for the segment along Sharon Road West and the segment along Park Road. There is a considerable amount of open space which is along Sugar Creek, with a small grouping of townhouses, and another small grouping of townhouses.

The proposed plan for amendment is to increase the amount of land devoted to single family housing-detached. It is proposed to increase the number of lots for single family housing from 194 to 234. At the same time they propose to eliminate an area proposed for townhouse development. Also they propose to cut down slightly on the amount of open space which would be placed along Sugar Creek; also they propose to increase the number of detached housing units in the area of Sharon Road West - the previous plan shows a maximum of 18 and they propose to enlarge the area and increase the allowable usage to 50.

Generally the rest of the plan will stay as it is presently designated with some minor changes related to configuration of open space which is reflective of a current condition more accurately than the previous plan indicated. The multi-family for sale units will be increased from 186 to 230, and the number of rental units will be decreased from 176 units to 90 units. The primary thrust is to increase the home ownerships status of the area with a combination of single family detached lots and attached units for sale, and at the same time decreasing the number of multi-family for rent units that would be allowed. The total number of units provided for in the plan remains practically the same, with a two unit decrease from 556 to 554. The principal change is an internal one.

Councilmember Gantt asked the reduction in open space by acreage? Mr. Bryant replied from 68.5 acres to 50.5 acres - an 18 acre reduction.

Mr. Ralph Howey stated he represents the property owners and will be doing the building if the variance is approved. In 1968 he appeared before Council for the first R-PUD classification under the ordinance. Having dealt with planned development since that time, certain modifications are in the best interest of the community, particularly those living within the project. The plan was amended once or twice before under different ownership, inserting the multi-family back in a predominately detached family area. They want to move that back out, and get it back into the attached housing area, reducing the number of rental units and increasing the number of single family units, and decreasing the overall density by a few units. The overall density is a very low density for an R-PUD being only 2.6 units per acre. The re-arranging of the common area is a logical pattern because the area to be changed there would be a sewer trunk line backing up between lots. They proved in some other developments that it is objectionable to have a common area abutting directly behind lots; it is a problem to keep up and people seem to resent traffic basically through their back yards to the common area.

Councilmember Short asked if he is actually changing existing rental units to condominiums, or does he expect to build more condominiums? Mr. Howey replied this is all vacant land in the area that is being changed; no change is requested for any existing; they are proposing more detached single family instead of attached.

Mr. Ralph Williams, 7120 Park Road, stated he does not have any opposition to this; but it is a matter relative to this. They understand when the area is developed by Mr. Howey it will be required under Section 18-5.1 of the Sub-division Ordinance that he connect a street from his planned development to a street in the Huntingtown Farm section. They have a street that deadends

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into Mr. Howey's property called Merrywood. As they understand it, when Mr. Howey develops this area he will be required under the current ordinance to connect his street into Merrywood. Their primary objection to this is that it will open cut-through traffic possibilities all the way from Sharon Road West to Tyvola Road.

He stated if Council would grant a variance to this ordinance permitting Mr. Howey to leave this street unconnected, it would prevent the cut-through traffic. They have discussed this with Mr. Howey and he agrees with them, and he does not feel the street would be an advantage to cut-through to his neighborhood. The people who live in there will have excellent access to and from their homes. The main concern and main fear is that this little connected street will allow people to cut through from Sharon Road West all the way through Quail Hollow Estates, through Mr. Howey's new development, through Huntingtown Farms and on to Tyvola Road. They feel it will create quite a cut-through hazard. The streets through the subdivisions are very hilly, and the streets are curvy, and cut through traffic would be very hazardous.

Therefore, they request Council to grant a variance to this ordinance which would allow Mr. Howey to not build this connecting street.

Councilmember Cox stated this is one of those unusual cases where the developer and the residents agree; he would ask Mr. Burkhalter, City Manager, to supply Council with an opinion of Mr. Williams' request with the idea of eventually in early January putting this matter of the zoning variance on the Council agenda.

Councilmember Carroll asked how you go about doing that? Is this the right way, or can Council suggest that it be taken into consideration? Mr. Bryant replied there are two things involved. First the subdivision ordinance would require the extension of any presently stub street circumstance. It would be necessary to consider the granting of a variance from that requirement. First the variance would be considered by the Planning Commission, and the Planning Commission has the variance granting rights under the subdivision regulations. If the Planning Commission does not react favorably to the interest involved, this may be appealed to the City Council.

Second is something that can be addressed as part of this zoning consideration. This plan as presently proposed does show that street; this plan becomes binding as far as any street configuration shown. At the same time you consider the possibility of a subdivision variance, at the time a recommendation is made on the plan amendment then Planning Commission can take that into consideration also.

Councilmember Cox asked how he gets the Planning Commission to consider that? He asked the Planning Commission to consider this at the time they consider the amendment to the plan.

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

HEARING ON PETITION NO. 77-65 BY CHARLES E. HICKS AND JOHNNIE N. HICKS TO CHANGE ZONING FROM R-9 TO R-9MF(CD) FOR PLANNED MULTI-FAMILY DEVELOPMENT OF PROPERTY FRONTING ON THE EAST SIDE OF PARK ROAD, ABOUT 195 FEET SOUTH OF THE INTERSECTION OF PARK ROAD AND YALE PLACE.

The scheduled public hearing was held on the subject petition for rezoning.

Mr. Fred Bryant, Assistant Planning Director, used an aerial map to point out the land use in the area, stating the subject property is vacant at the present time.

He stated the site plan submitted proposes to erect four buildings in the mid-part of the property, with the buildings having various numbers of multi-family units in them. An area of parking is proposed with one driveway entrance coming out onto Park Road.

Councilmember Selden asked if it is not true that there is no driveway intersection on Park Road from the property at the present time and that Park Road has a high level of traffic volume along this particular area and there is already difficulty entering from the various side streets?

Mr. Bryant replied it is obvious at the present time there is no access to the property because the land is entirely vacant. That Park Road does carry an extremely high volume of traffic, and entrance to it from either a street or private drive is difficult.

Councilmember Short asked how many people could live on this tract of land under the present zoning? Mr. Bryant replied if they were able to make maximum use of it, which they probably would not be able to do, it would indicate somewhere between 20 and 25 units, applying the density formula.

Mr. Harry Wolf, Architect, stated he represents McQueen Properties who anticipate purchasing the property from the Hicks if the rezoning is approved. He illustrated with slides that while the present zoning is single family, the character of the area is really quite different, and the state of repair of some of the property indicates a neighborhood in some sense of transition.

Mr. Wolf stated the point they would like to make relative to the property is that the traffic on Park Road is indeed heavy at this point in time. When the zoning was initially made on the property the amount of traffic was less than it is now. In his opinion, this piece of property will not be developed for single family, although by calculation can accommodate up to 27 single family units. The terrain slopes considerably and that many units could go on it if you came in and bulldozed all the trees. It is a lovely site and it would be a shame for that to happen. It seems to them a more appropriate use is multi-family, providing close-in housing for those people who either cannot afford to, or chose for whatever reason, to live in apartments rather than houses. Under R-9MF they could house considerably more units than they are petitioning for. The manner in which the property is being developed has a number of features which they feel are worthwhile. For that reason they have chosen the CD option which allows Council to require the developer to "put his money where his mouth is" - it binds him ultimately to what he says he will do on the plan.

He pointed out on the map the subject property, pointing out that it falls steeply down the hill to a creek, and stating they propose to maintain that creek as a natural barrier, leaving it absolutely undisturbed. Also to create a buffer 180 to 190 feet wide along the back side of the property, protecting the homeowners back there. That area would have nothing in it; it will be literally undisturbed.

He stated the developer lives in Charlotte and has an enviable track record, having developed property at Hilton Head. He had a development that was recognized by the Georgia Chapter of the AIA for its sensitivity to the environment as well as for good design. That Mr. McQueen said at the outset that what he wanted the architects to do was create buffers at designated places and locate the buildings along the contour, group the parking

at the end of the site where it would not disturb the neighborhood and have the only access directly on Park Road. They have considered the issue of traffic on Park Road and are concerned about how much they would be contributing to it. That with 70 units on this property, and with the traffic volumes there daily, in terms of what they add to Park Road it is literally like taking an eyedropper full of water and adding it to a running stream - it is not a discernable amount. They have discussed this with the City Traffic Engineering Department and they concur.

They have also discussed the matter of erosion control and run-off from the property flowing down to the creek, with Mr. Rust of the Engineering Department. They are prepared for his review and will follow his recommendation to maintain absolutely the erosion control and water run-off so that they leave that site undisturbed.

He stated that out of 5.74 acres, they have better than 3.5 acres that are undisturbed - only 70 units of multi-family housing.

Responding to a question from Councilmember Gantt, he stated the apartments are all on one floor - two stories in the front, three stories in the back, recognizing the slope of the land.

Councilmember Short asked if the stormwater control facility would be a part of the conditional plan and could not be varied? Mr. Bryant replied it could be made a part of the conditional plan; it is not at the present time.

Mr. Wolf stated the only reason they did not submit it is that they met with Mr. Rust and someone else in the Engineering Department and they had told them that the proper procedure is that they will tell them what they are required to do; will review their grading plan, etc. They will do whatever the City says. He stated in reply to a question from one of the Councilmembers, there would be about an acre of parking space, and it is within the 2.17 acres that are being developed.

Councilmember Dannelly asked if somewhere in that area there is flooding presently and whether or not, even though they are waiting for Mr. Rust to work with them, the parking facility will increase the possibility of flooding more quickly?

The Assistant Planning Dir. replied that normally if you are preparing a stormwater detention facility to go with a development plan such as this, the only requirement you would have would be that the rate of stormwater run-off, after development, would be controlled in such a fashion that it would not exceed the rate of run-off that was there prior to development. So, if the system is designed correctly, to its maximum control, there should not be any higher rate of water run-off after development than before.

Councilmember Leeper asked with the amount of space that the buildings will take and that small creek running behind them, with the homeowners on the opposite side, if that will create a problem, waterwise? Mr. Bryant replied that again it depends on the adequacy of the stormwater detention system and this is where they would have to depend on engineers from the Public Works Department to ascertain the adequacy of the system that they might propose. But, a detention system can be designed so that the rate of run-off so that it is no more after development than it was prior.

Councilmember Gantt stated the Council has from time to time been faced with requests for rezoning this area. He hopes when the Planning Commission ultimately deliberates on this they will look at the bigger picture too and make some recommendations for the entire area.

Mr. Wolf stated the City Engineering Department has the authority to do what it was not able to do in the past - it can control the water run-off. It can make the developer do those things that are necessary to make sure that flooding is not created; to make sure that the water seeps into the ground before it gets to the creek and not add to the flow of the creek.

The following people spoke in opposition to Petition No. 77-65:

Wayne Jones, 1332 Townes Road, stated he has been a resident of the Park Road inner-city neighborhood for eight years and is speaking on behalf of the Park Road Inner-City Neighborhood Association. He stated they sent a petition to all Councilmembers last week indicating that over 200 of the neighbors oppose the rezoning of the Hicks property.

He stated the 1995 Comprehensive Plan specifically states that there should be no changes in zoning for new houses, offices or businesses unless it clearly benefits the neighborhood in question. The Association believes that the neighborhood is, in fact, the people who live in that neighborhood, and these people do not believe that the rezoning of the Hicks property would clearly benefit them, because (1) rezoning of even one of the properties on Park Road would encourage and lead to rezoning and non-compatible landuse of a number of other properties on Park Road. All of these properties which would ultimately be rezoned are large tracts of land that extend out into the heart of their single family, residential neighborhood. They all know that strip zoning has never been beneficial to a residential neighborhood.

(2) Rezoning and building of apartments on the Hicks property would significantly contribute to the already severe traffic problem on Park Road.

(3) The apartment complex would also add to the severe water run-off problem which some of the neighbors would not be equipped to handle.

(4) They do not need revitalization of their delightful, older and stable inner-city neighborhood; they simply need continued protection that single family zoning affords.

Mr. Jones filed a copy of a letter from the Elizabeth Association with the Clerk.

Reid Shoemaker, 3419 Park Road, stated his property is located on the same side of the street as the property proposed to be rezoned and to the south of the subject property. He stated he is here to protest the proposed rezoning of this property and encouraged Council to reject the petition. He and his wife are both lifetime Charlotte residents; have lived at the residence on Park Road since 1973. Prior to that time they lived for many years on East Morehead Street and some of them will remember when East Morehead Street was a beautiful residential section with some of the loveliest homes in Charlotte. Anyone who has been down East Morehead Street recently realizes that this is no longer the case. Instead there is a hodgepodge of office buildings and other businesses which have ruined the residential nature of this neighborhood. They had to leave East Morehead Street in 1973 and were delighted to find a home on Park Road. His friends and neighbors feel very strongly that if Council approves this rezoning petition it will be the beginning of the end of their neighborhood. While it is true that this rezoning petition does not involve offices, as all of them know, apartment complexes create a set of problems all their own, including noise, traffic, congestion and other associated problems. They believe that Park Road is at the saturation point with respect to multi-family housing and that no further development of this kind is warranted on Park Road. It has been their experience since 1973 that the traffic on Park Road has become nearly intolerable. Already they have to wait great lengths of time in order to enter Park Road from their driveway at any time of day and it is nearly impossible during the rush hours. Since 1973 there has been a minimum of 15 to 20 wrecks on Park Road directly across from his residence. The traffic whizzes by at a very high rate of speed and because of the curves and hills entering Park Road in an automobile is a very hazardous undertaking.

He stated there are other problems associated with this proposal related to run-off water. That this sounds like a bad dream for them. They know what happened to them on East Morehead and it can happen again unless Council acts to save their neighborhood. Two years ago they had to fight to save this neighborhood against another petition. At that time Council heard their views and understood them, and agreed with them. He asked that they please not let this nightmare become a reality.

Don Browder, 1214 Marlwood Terrace, stated he lives adjoining the subject property on the east side. They have lost about six or eight feet to that creek; it is becoming a larger and larger creek all the time. As a matter of fact, where it inches out of Park Road into the creek on the boundary property, it has become a very large hazard. It gets more difficult as you go downstream; it will cover Townes Road in a good rainstorm. He has had the benefit over the years of listening to people all over the community talk about water problems, standing on the banks of some of the creeks in years gone by, and hearing people say "Well, that happened 25 years ago. If we had had an opportunity to make a decision at that time, we would have solved that problem." Well, here is the opportunity. Something will have to be done to that tributary sooner or later because above it you have the Marsh Road property, which ultimately has to go in some direction, because it is all farmland.

Figures on the traffic - in 1976, the two-way volume on Park Road was 18,500. Those apartment units will add approximately 4 percent.

He stated the domino theory can be illustrated perfectly by the apartment across the street, the church across the street. The Hicks house which was in ill repair is one of the petitioner's family. He stated members of Council and of the Planning Commission should come and look at the area before they vote on it.

Bob Fox, 3301 Willow Oak Road, stated he and his wife have been residents of Charlotte for seven years; they have resided in both an inner-city neighborhood and in the outlying residential subdivision. With due respect for the subdivision which was a good one, the inner-city neighborhood is by far their choice as a place to live. It offers so many things, including convenience to downtown, YMCA, the farmers' market, Nature Museum, Spirit Square, CPCC and the many other amenities of this great city which they have come to know and appreciate.

He stated that earlier this year they chose to make a substantial investment in a house on Willow Oak. Two other people have made similar investments, building new houses on Willow Oak during the year. He and his wife were looking for a permanent residence, one conducive to raising their three children. Willow Oak today is just that; it is a delightful and stable neighborhood with relatively little noise and traffic pollution from the much heavier traffic along Park Road.

They think that the zoning petition if approved would have at least two major adverse effects on his residence - one relatively short term and the second one somewhat longer but ultimately more troublesome. The elevation of his property is much lower than that on Park Road; they are bounded by Sugar Creek at the rear, which he understands has taken over ten feet off of his property in the past seven years. They have a normally small stream along the left side of the property - the tributary previously referred to. On occasion it becomes a torrent when filled with run-off from the Park Road area, including Marsh Road. Over the past several years the stream has become considerably deeper and wider and has occasionally flooded large parts of his front and back yards and poses a threat to his driveway. There is no question that additional paving of property along Park Road will worsen this problem. He has read enough about similar stories, about water run-off problems in Charlotte to realize that neither the City nor the developer normally assumes the financial responsibility for this problem - if falls squarely on the homeowner.

He feels that this section of Park Road will experience the same evolutionary process that has occurred on East Morehead and East Boulevard. They simply would like to stay there for good; they love the neighborhood as it is and sincerely hope that Council will not see fit to change the zoning rules to accommodate a change which is clearly inconsistent with the Comprehensive Plan.

Mr. Wolf stated, in rebuttal, that Mr. Fox makes a very good case for the inner-city neighborhood - he lives in one and agrees with him. As the city grows, more and more people seek housing and he wonders how we are going to

respond to that. If we continue to force people farther and farther out - more and more distance from the city, we are not solving problems but are just going to add to our traffic problems.

What they are proposing is not to change the character of the neighborhood; they are not talking about strip zoning; what they want is residential use in a residential neighborhood. What they want to do is to provide multi-family housing on this property, close in to town, in a fashion that respects the terrain, that respects the neighborhood, that respects the ecology of the water run-off, and that responds as positively as they can to the growing dynamics of the city.

The Clerk stated for the record that she has on file a copy of the protest petition which has approximately 200 signatures on it.

Councilmember Selden asked how many of the adjacent property owners signed the petition?

Mr. Browder stated that everyone on the east side of Park Road is on the petition - four or five property owners.

Councilmember Cox asked if the site plan makes any difference and the general answer from the audience was no.

Decision was deferred pending a recommendation from the Planning Commission.

HEARING ON PETITION NO. 77-66 BY HANFORD, INC., TO CHANGE ZONING FROM R-6MF TO B-1 OF PROPERTY FRONTING ON THE SOUTH SIDE OF SUNNYSIDE AVENUE, ABOUT 185 FEET EAST OF THE INTERSECTION OF SUNNYSIDE AVENUE AND HAWTHORNE LANE.

The scheduled public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, located the property on the map and described the area as to zoning and landuse. He stated the lot is vacant at the present time. The predominate landuse in the block is the facility operated by Hanford Florist; they are the petitioner, proposing to rezone this property to allow activities similar to what is being carried on on the major portion of the lot. He stated that from the land use circumstance it appears to be an intrusion between residential uses, which it is, from the zoning pattern standpoint it is an extension of an already existing B-1 pattern extending all the way over to Lamar Avenue.

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Mr. Ben Horack, Attorney for the petitioner, stated Hanford's is a wholesale florist concern and has been a family business for 72 years; for the past 30 years it has been in Charlotte. About 12 years ago, Hanford's principal place of business moved to its present location on Independence Boulevard. In addition Hanford has maintained a separate location for its bulk reserve storage for flowers and floral supplies accessories; for the last three years this facility has been at Third and Caldwell Streets.

Under the zoning ordinance a B-1 area is specifically regulated to retail business establishments. The zoning laws for a good many years have permitted wholesale florists in a B-1 area as a matter of right, which is a recognition that such a business, though technically a wholesale one is a rather low key inoffensive type of operation that has long since been deemed accommodatable in a B-1 area.

He stated Hanford's is a very attractive facility. The rezoning petition is a request for reclassifying a small area of Hanford's own R-6MF property to a B-1 classification in order to accommodate their plans to improve the convenience and efficiency of its present operation.

He referred to a drawing and pointed out the present building; the R-6MF portion of the property owned by Hanford's and the portion sought to be changed to B-1 in order to build an addition.

Mr. Horack stated the main administrative and distribution facilities are located on the Independence Boulevard site; the proposed new addition is designed to serve several functions, all aimed at increasing efficiencies. It will eliminate the cross town traffic of getting floral accessories and flowers themselves from the bulk storage facility over to its East Independence facility; it will allow Hanford to install labor savings equipment; it will them to install computer installations. It is planned to have areas for improved lunchrooms and lounge facilities, and will result in less interior congestion. Its operations will be improved by the addition by allowing better refrigeration of its flowers.

In making this request for a change from R-6MF to permit the addition to improve the facilities of Hanford at this location, they do not imply anything with reference to the ultimate destiny of the other property that Hanford owns on Hawthorne Lane; they are confining their request simply to this thin strip to permit the expansion.

Mr. Horack stated he understands there has been no objections from the neighborhood with reference to the proposal; that Mr. Hanford has talked to the Elizabeth Community Association and in particular Ms. Willyard, and he is advised that she has indicated her approval of the proposal.

Ms. Carlson Willyard, 611 Clement Avenue, stated she is here representing the Elizabeth Community Association; they are in support of Mr. Hanford's request to rezone his property. Mr. Hanford approach the Neighborhood Association in November about his plans for expansion of his facilities. Since this first meeting he has had two members of the Association to his place of business to explain in detail exactly what physical changes will take place. He has accepted their suggestions and ideas, and he has been very atuned to what would make his expansion more attractive to the area. This particular situation can be an excellent example to other businesses as well as neighborhood associations as to how the two parties can work together effectively, and make proposed changes equally satisfactory to everyone involved.

No opposition was expressed to the proposed change in zoning.

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

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COUNCILMEMBER EXCUSED FROM PARTICIPATING IN HEARING ON PETITION NO. 77-67 DUE TO POTENTIAL CONFLICT.

Councilmember Gantt stated he would like to be excused from participating in the next item as he has a potential conflict.

Motion was made by Councilmember Short, seconded by Councilmember Locke, and carried unanimously to excuse Councilmember Gantt from participating in Petition No. 77-67.

HEARING ON PETITION NO. 77-67 BY COMMUNITY DEVELOPMENT DEPARTMENT TO CHANGE ZONING ON PROPERTY FRONTING ON THE NORTH SIDE OF GOLDWYN STREET, LOCATED AT THE INTERSECTION OF GOLDWYN STREET AND STANCIL PLACE.

The public hearing was held on the subject petition for a change in zoning from R-6MF to B-1.

Mr. Bryant, Assistant Planning Director, stated the subject petition involves a proposal to enlarge an area of B-1 zoning which was approved a few months ago as being in compliance with the Grier Heights Target Area plan. The property is located at the corner of Goldwyn Avenue and Alpha Street in the Grier Heights Area.

The property is owned by the Community Development Department and is vacant with the exception of one house that is to be moved. There are residential structures on the opposite side of Goldwyn, on Stancil, on Marty, and other streets in the vicinity. Generally there is vacant land to the north and to the east of the property.

Most of the surrounding property is zoned R-6MF except for a small parcel of B-1 which is immediately to the east of the subject property; that is the parcel that was recently rezoned at the request of the Community Development Department in order to carry out a segment of the plan for the area which called for the establishment of a small neighborhood retail service center to serve the residents of the area.

The purpose of the request today is to enlarge that area. They found in dealing with potential developers that the initial parcel of land was too small and they needed more land in order to attract the developers to the property. This is to expand an existing segment of B-1 zoning in order to help carry out the objectives of a plan of development for the Grier Heights area.

Mr. Sawyer, Director of Community Development, stated they originally planned the commercial area for this Target Area to front on Alpha Street for the proposed rerouting of Alpha Street, at its intersection with Goldwyn Street. This was done to provide a convenience shopping center for the Grier Heights Neighborhood. They now have a development group which prefers an orientation to Goldwyn Street rather than Alpha Street. They not only need additional land, they want a different orientation which is fine with Community Development.

This will accommodate the developer and it makes no difference as far as the plan is concerned. The increase in area is supported by a recent market study which was made of this area, and the commercial areas in some other target areas. They wanted some professional opinion regarding how much area to set aside, and request be designated for convenience shopping.

Mr. Sawyer stated they support this and petition on behalf of the Department in response to a development proposal they have in hand that does conform to the plan, and will be a real asset to the project area. A number of the businessmen in the project area are members of the development group.

No opposition was expressed to the proposed change in zoning.

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

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MEETING RECESSED AND RECONVENED.

Mayor Harris called a recess at 10:30 p. m. and reconvened the meeting at 10:35 p. m.

ORDINANCE NO. 859-X TO AMEND ORDINANCE NO. 776-X AND TRANSFER FUNDS FROM THE FIRST WARD EXTENSION COMMUNITY DEVELOPMENT TARGET AREA ACCOUNT TO THE DOWNTOWN URBAN RENEWAL FUND TO PROVIDE ADDITIONAL FUNDS NEEDED FOR THE FEDERAL CLOSE-OUT OF THIS URBAN RENEWAL PROJECT.

On motion of Councilmember Leeper, seconded by Councilmember Dannelly, and carried unanimously, the subject ordinance was adopted transferring \$18,910.96 from the First Ward Extension CD Target Area account to the Downtown Urban Renewal Fund to provide the additional funds needed for the federal close-out of this Urban Renewal project.

The ordinance is recorded in full in Ordinance Book No. 25, at Page 140.

COUNCILMEMBER CARROLL EXCUSED FROM VOTING ON NEXT ITEM.

On motion of Councilmember Selden, seconded by Councilmember Short, and carried unanimously, Councilmember Carroll was excused from voting on the next agenda item.

CONTRACT WITH CENTRAL PIEDMONT COMMUNITY COLLEGE FOR A COMMUNITY EDUCATION PROGRAM FOR COMMUNITY DEVELOPMENT AREA RESIDENTS, APPROVED.

Motion was made by Councilmember Gantt, seconded by Councilmember Selden, and carried unanimously, approving a contract with CPCC for a Community Education Program for CD area residents for a total of \$175,670 and to operate from January 1 to December 31, 1978.

COUNCILMEMBER TROSCH EXCUSED FROM MEETING.

On motion of Councilmember Carroll, seconded by Councilmember Leeper, and carried unanimously, Councilmember Trosch was excused from the meeting at this point and was absent for the remainder of the session.

ORDINANCE NO. 860-X AMENDING ORDINANCE NO. 576-X, THE 1977-78 BUDGET ORDINANCE, REVISING THE SOURCE OF FUNDING AND RE-APPROPRIATING FUNDS FOR THE COMPLETION OF THE GEOGRAPHIC BASE DATA FILE PROJECT.

Councilmember Gantt moved, for the purpose of discussion, the adoption of the subject ordinance revising the source of funding and re-appropriating funds for the completion of the Geographic Base Data File Project. The motion was seconded by Councilmember Leeper.

Councilmember Gantt stated he questions a little bit the fact that \$42,000 of this was supposed to be provided by the Department of Transportation when we approved our local share for this Geographic Base File. He wonders whether we have exhausted all of our efforts in trying to get this thing clarified with DOT. That, as he reads the material supplied with the agenda, they require prior approval of any contracts over \$50,000 and the City assumed that because they were only asking for \$42,000 from them that this met the requirement.

Mr. Thomas Finnie, Budget and Evaluation Director, stated there have been several meetings concerning this; DOT is still arguing that we have not met the requirements. The City has been perfectly willing to bend over backwards and renegotiate it - do whatever they think is required. They simply do not want to fund it. They say we do not meet the requirement and it is too late - we have already proceeded with the contract. He

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stated that, with the exception of simply appealing to the Department of Transportation, it has been appealed as far as it can go.

Councilmember Gantt asked if we have very good relationships with that Department. Mr. Burkhalter, City Manager, replied we have excellent relationship with them; that this puts some of them at the State level in a situation of violating their rules, which they do not want to do. That some of the officials on the State level are very much in favor of Charlotte. It is one of those situations that we did not want to push any further.

Replying to a question from one of the Councilmembers, Mr. Finnie stated this completes the allocation; it is not something that will be coming up again.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 141.

ORDINANCE NO. 861-X, AMENDING ORDINANCE NO. 576-X, THE 1977-78 BUDGET ORDINANCE, TRANSFERRING FUNDS TO THE TRAFFIC ENGINEERING DEPARTMENT FOR THE INSTALLATION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF DR. CARVER ROAD AND WEST BOULEVARD.

A motion by Councilmember Short to defer action on this item did not receive a second.

Councilmember Leeper moved adoption of the subject ordinance to transfer \$10,000 from the General Fund Contingency to the Traffic Engineering Department for the installation of a traffic signal at Dr. Carver Road and West Boulevard. The motion was seconded by Councilmember Dannelly and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 142.

RECOMMENDATION OF CHIEF J. C. GOODMAN FOR AMENDING THE TABLE OF ORGANIZATION AND PAY PLAN FOR THE CHARLOTTE POLICE DEPARTMENT AT THE COMMAND LEVEL, DISCUSSED. DECISION DELAYED UNTIL NEXT COUNCIL MEETING AND CHIEF INSTRUCTED NOT TO FILL TWO VACANCIES.

Police Chief J. C. Goodman stated that currently we have three assistant chiefs and seven majors in the Police Department, all with Civil Service status - a total of ten administrators administering approximately 720 people, 24 hours a day, seven days a week. Unfortunately, we lost an assistant chief by death last month and one retired. This leaves two vacancies as assistant chiefs with Civil Service status.

He stated that rather than get in this position again, he proposed that these ten people be reduced to nine. One assistant chief, Chief Adams, would be in charge of so-called public relations, public information, training, as well as Internal Affairs and Inspection and Control sections, taking this weight off of him.

With the seven majors that are left he would make three, super majors or division commanders who would act as the three assistant chiefs have been acting. Their Civil Service rank would be major, but they would have the title Division Commander and would be drawing the pay that the Assistant Chiefs have drawn in the past. Should one of them get seriously ill, he would have the prerogative to reduce them to major and make another division commander to carry on while they were ill or incapacitated for some reason. Or, if for some reason they did not perform, he could move them back down to major and make another "super major" without going through the Civil Service process. Since this would eliminate one major position, it would save the City about \$24,000 a year. The raises would only amount to a couple thousand dollars for three people. There is an emergency in this in that these positions have been vacant for over a month now; it took almost a month to get it on the agenda and he would prefer that it not

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be deferred because it might be another month. Right now they are operating on temporary assignments and they are in a dither as to who is in charge of what. There is a lot of uncertainty and he would like to go ahead and name these people and give them their responsibilities.

Councilmember Selden moved that the recommendations by Chief Goodman for amending the Table of Organization and Pay Plan for the Police Department at the command level be approved. The motion was seconded by Councilmember Short.

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Councilmember Locke requested that Chief Goodman explain further the changes he proposes with reference to the process not going through Civil Service.

Chief Goodman stated there are a lot of positions in the Police Department such as an investigator. They are police officers but they are assigned as investigators on different jobs and they do not go through Civil Service to do this. If they should not perform they can be put back as Police Officers in uniform. That is similar to what they are asking here. That the Master Police Officer concept that was recently adopted is the same way. The Master Police Officers do not have Civil Service status as such. Should their performance deteriorate for some reason or other, then by assignment he would put them back as police officers and promote someone else to the position of MPO without going through Civil Service.

Under the new system, there would be eight majors and one assistant chief. Of the eight majors, three of them would be made "super majors" (division commanders) by assignment only. Should one of them not perform he will cut him down - they know he will do that - and replace him with another one.

Councilmember Gantt asked what would be the impact if Council decides to delay this for further study? That he stated earlier that he wanted to do this right away because it would impair his ability to administer the department; that Chief Adams is the only assistant chief he has now. Essentially the other majors are involved in their various assignments. Who are the commanders of those various divisions or who supervises that work at the present time?

Chief Goodman replied that Chief Adams supervises one of them; that the vacancy created by Chief Miller's retirement is being supervised by Major Eidson who also supervises the Baker Patrol Bureau. They are trying to coordinate two other majors at the same time - the Adam and Charlie Bureaus. The other division is headed by Major Stone who was Assistant Chief Harkey's first assistant and took over for Chief Harkey during his one-year illness. He would like to settle this uncertainty in the department.

Councilmember Gantt asked if a delay in the decision would impair his ability to do this - even for another two weeks? Chief Goodman replied two weeks is a long time when you work seven days a week, 24 hours a day. It sounds like six to him.

Councilmember Dannelly asked if the Chief would decide to retire or something like that, and Chief Adams move up, is this organization binding on Chief Adams as a new chief?

Mayor Harris stated that Council sets the organization in effect; and Mr. Burkhalter stated the interesting thing about it is that if Council does not do anything about it and they fill the Assistant Chief positions, then it is binding. If they approve Chief Goodman's recommendations, then it is not binding. That is the message the Chief is trying to get to Council. He inherited two or three assistant chiefs and did not have anything to say about it. If a new chief comes in in this chief's place, he will have those assistant chiefs whether you want them or not, because they are there through Civil Service.

Councilmember Carroll stated he does not quite understand why if they deferred the matter for two weeks, as Councilmember Gantt mentioned, that would lock them in. Mr. Burkhalter replied it does not lock them in; but the Chief had to first get this cleared through his office and then had to

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go through all the red tape of getting it on the agenda; he has had a situation since Chief Harkey died and since Chief Miller retired of positions with nobody in them. That in the Police Department rumors are flying fast and if it is postponed tonight, they will all wonder what Council has in mind if they are not going to do this. That if Council does nothing the department now has three assistant chiefs; tomorrow he can promote two assistants into these vacant spots. He does not want to do that but he needs someone to run those positions. He would rather do it the other way and that is what he is asking Council to do.

Councilmember Short stated it is clear the proposal would give the Chief much greater flexibility in a situation where we have just added a third team and unless those who are speaking of delaying this would want to explain publicly their reasons for delaying it, he certainly cannot vote to delay it. It is a good plan; why put it off?

Chief Goodman stated they have looked at a lot of Police Departments and asked about top administrative officers and in a lot of large departments no one above the rank of Captain has Civil Service status - the Chief has leeway to appoint everybody over the rank of Captain; if you change Chiefs, then he gets his own group in. Under our system everyone is locked in by Civil Service except the Chief.

Councilmember Gantt stated in reply to Councilmember Short's point, on the face of it, he does not have any objection to the kind of thing that the Chief is proposing; but it is a new Council and he is willing to respect it if anyone needs to know more about this reorganization and the implications of it. It is the first time they are hearing it; the first time any of them have discussed it and in other decisions they have made, of some moment, and this does have some, they have deferred when they were not sure. That is the only reason he wanted to clarify what the impact would be if this was deferred until the next Council meeting. He still has not heard anything that would indicate that Chief Goodman would go ahead and fill those two vacant positions in the next two weeks. He does not think he would because he wants that flexibility he is requesting.

Councilmember Short replied he knows there are new Councilmembers but this matter is just not that complicated. If you have everybody bumping up against their ceiling jobwise, there is nothing you can do but leave them there and the Chief is asking for a more flexible situation that gives him some opportunity to utilize the personnel in a way that proves effective to him.

Councilmember Selden asked the Chief if by his test of this plan, if it were approved tonight, when it developed that some alternative would be better in three or six months from now, he would still have the flexibility, if he heard him correctly, to come back in and alter the plan to another position? Chief Goodman replied that is correct and he tells his men constantly the only thing permanent about their organization is change; they change as change is needed.

Councilmember Selden stated then at this particular time to afford the Chief this opportunity would improve the efficiency of the operation immediately rather than a delay and would not alter the alternative at a later date? The Chief agreed.

Councilmember Cox asked what is the difference in his doing this today and doing it a month ago when the other assistant chiefs were here? Can he not change an existing position? For instance, if he did not like Chief Adams, could he do away with his assistant chief position today?

Chief Goodman stated there is a tendency to perpetuate what they are doing; police are bad about this. Here is an opportunity with two vacancies as assistant chief - he has had three assistant chiefs to die and one to retire since he has been chief, but never two at one time. But, this is an opportunity with two vacancies to change. They would not be demoting anybody. The Chief stated in response to a question from Councilmember Selden that under the system here in Charlotte, he cannot step down an assistant chief without trying him before the Civil Service Board.

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Councilmember Leeper stated he can appreciate Chief Goodman's wanting the opportunity to determine who his subordinates will be, but he has some concern about the urgency of it. He can see his talking about the unrest in the department, but because this is such a major change in the departmental structure, he would just like to have some more time to at least look at some of the adverse effects it may or may not have.

Councilmember Dannelly stated that relative to a question Councilmember Selden asked about the locking in of the Chief's immediate subordinate, the Assistant Chief, does he understand the Chief to say that under this organization he is locked in under Civil Service?

Chief Goodman stated they have operated for one year without Chief Harkey; they have doubled up and assumed his responsibilities. Now, with the retirement of another Assistant Chief, they are in a bind as far as who is the administrator, who does what. His office is full morning to night making a lot of decisions for other people and he would like to delegate some of these. This is not something that came up yesterday; he brought it to Mr. Burkhalter's attention a month ago, but with red tape, etc. it took this long to get it on the agenda. He would rather Council did not delay it but that is their prerogative.

Councilmember Gantt made a substitute motion that Chief Goodman be instructed not to fill the two Assistant Chief categories and delay a decision on this matter until the next Council meeting. The motion was seconded by Councilmember Locke, and carried by the following vote:

YEAS: Councilmembers Gantt, Locke, Carroll, Frech, Leeper and Dannelly.  
NAYS: Councilmembers Cox, Selden and Short.

#### STATEMENT BY CHIEF GOODMAN ON GRAND JURY INVESTIGATION OF POLICE WIRETAPPING.

Chief Goodman stated that while he is on his feet, there is a subject he would like to talk with Council about; he knows it is as interesting to Councilmembers as it is to him. He will update them on the status of some allegations that are continuing to be made about illegal wiretapping by the Charlotte Police Department.

He stated they read the newspapers as well as he does, but he wants to personally inform Council that the Charlotte Police Department does not condone illegal wiretapping; it never has and never will under his administration. They have only a small amount of electronic equipment - the Grand Jury has one piece, what they have left is in a sealed box in a safe in the basement of the Police Department, and will not be opened until guidelines are written for its use and Council approves of it.

That they have surveyed many Police Departments in the Country in the last couple of months for their guidelines and policies for the use of this equipment. They are going to take the best from each and make their own guidelines and send them to Council for its approval as to their use. They will also probably be over here asking that they purchase some more electronic surveillance equipment because what they have is in pitiful condition.

He stated that on March 6th of this year one element of the press accused him personally of violating some federal laws, and members of his department. The next day he denied it; he denied it emphatically with all the members of the press. He took them on one at a time and spent all day Monday talking to the press, following that article. He denied it then, he has denied it since then and he denies it right now! He has never had a part of any illegal wiretapping, has never condoned it, never authorized it or had any knowledge of it.

Chief Goodman stated when these allegations were made he stated that he would welcome an investigation. Well, he got it - by the best law enforcement agency in the Country, the FBI. They investigated the allegations that were made; they had the power of subpoena for anyone in the United States, which they used. The investigation by the FBI went on for months.

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They took their findings to a Federal Grand Jury, which in his opinion is the most effective investigative tool that we know today in our country. The Justice Department saw fit to assign a special prosecutor to assist in the prosecution. After six months - negative; no indictments; came up with nothing, not a thing.

Now, he hears - Council hears, they read the paper also - that the same source has suggested to the Mayor and Councilmembers and to him as Chief and to Mr. Burkhalter, that they conduct another investigation. He has consulted with many people about this - the City Manager, the City Attorney, the Police Attorneys, other attorneys and many other people. There is no one who sees any need to investigate this thing further. What better investigation can be made than one done by the FBI and the Federal Grand Jury? They made no indictments - negative results. He thinks it would be futile for him or Council to attempt another investigation into this subject. He wants to emphasize again that the Police Department nor himself has ever authorized or condoned violations of the law by its members and they never will under his administration. He will also tell them that he never ran from a fight; he will never run from an investigation. He only suggests to Council that they consider these allegations have been thoroughly investigated, all with negative results, and that it is time to put them to rest and permit the Charlotte Police Department - one of the finest in the nation - to get on with 1978.

The Chief stated the Police Attorneys and the top members of his staff are present and will answer any questions that Councilmembers may have about this.

Councilmember Gantt stated he was not prepared to respond to this, but it does seem to him that there are some allegations made, and admittedly we have gone through a Grand Jury process in which they could not return an indictment, which meant that no one was proven guilty of wiretapping. However, the Chief is aware of the fact that the U. S. Attorney turned over, or at least indicated to our District Attorney, that some wiretapping was involved. That puts the Council; that puts the Chief, the City Manager in an awkward position, because notwithstanding the fact that the Grand Jury was not able to come up with an indictment for anyone, there remains a cloud over the entire city and the law enforcement process when you have people that are not fly-by-nights, people who are respected individuals in the community who believe that some wiretapping was involved.

He stated the Chief said here tonight that he was not involved; that he knows of no one who has any reason to question his integrity. The question that does exist is whether or not some members of the department were involved without the Chief's knowledge, and whether or not this Council is in a position to request of the City Manager that they look into that. He is prone to wonder just a little bit if the Judge had allowed an examination of the record of the Grand Jury and if that record indicated in fact that there were some police officers who testified under immunity that they were involved in some wiretapping activity, what would then have been the Chief's response. Would he not have felt it necessary to investigate those allegations even though he himself may not have been involved?

We can all play those scenes over and over in our minds and in a sense, we have been "saved" by the Judge who would not allow an examination of that record. He cannot testify nor say anything about the legality of that; the judge certainly knows more than he does about that kind of thing. But, the Chief will have to admit that the issue is not dead, simply by the fact that we did not get an indictment from the Grand Jury. He does not know what procedure this Council will want to take, or whether it wants to do anything, but the fact is that in his own mind, and in the minds of a lot of people, the issue is not dead and Council may have to ask for some form of investigation, or something that would in fact increase public confidence in his very fine department.

Mayor Harris stated to Chief Goodman that he thinks we have a fine Police Department in this city and he knows that it was difficult for him to stand there and give this statement. It was not on the agenda, but Council appreciates his coming forth and giving them this statement.

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ORDINANCE NO. 862-X APPROVING AN INCREASE IN THE STATE'S COMMISSION FOR HANDLING CITY OF CHARLOTTE AUTOMOBILE LICENSE DECALS.

On motion of Councilmember Gantt, seconded by Councilmember Short, and unanimously carried, the subject ordinance was adopted providing for an increase of up to 25¢ in the State's commission for handling City of Charlotte automobile license decals.

The ordinance is recorded in full in Ordinance Book 25, at Page 143.

RESOLUTIONS ESTABLISHING A CITY POLICY AND PROGRAM FOR HANDLING CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST CITY EMPLOYEES & OFFICERS: AND ORDINANCE NO. 863-X APPROPRIATING FUNDS TO A CIVIL CLAIMS AND JUDGMENTS TRUST FUND.

Consideration was given to establishing a City Policy and Program for handling claims and judgments sought or entered against City employees and officers.

Councilmember Locke moved adoption of a resolution establishing uniform standards under which claims and civil judgments can be paid and requested that Mr. Jim Spivey, Executive Director of the Charlotte-Mecklenburg Insurance Advisory Committee, speak to this item. The motion was seconded by Councilmember Leeper.

Mr. Spivey explained that the Committee is the Risk Management Department for all local government. That on January 12 Councilmembers have been invited to a meeting where they will go into details about what they do and how they do it and explain to them the process they use and the function they serve.

He stated this proposal is one for defending officials - including Mayor and Councilmembers, department heads and all employees - against lawsuits, and satisfying claims and judgments against employees and officers for actions taken within the scope of their employment. A special fund would be established to meet such expenses and the initial appropriation proposed is \$200,000. The City Manager would authorize settlement of claims on suits less than \$5,000; settlements in excess of \$5,000 would require City Council approval. This is pretty much in line with the policy used now for the Transit System.

Councilmember Dannelly stated he is asking for the initial funds and then funding this fund in the future. How does this compare with what we had in the past for the cost of this kind of coverage?

Mr. Spivey replied the initial appropriation would exceed the fund by some \$75,000. The amount of the current insurance for Police and Professional liability, for instance, which is one of the major contributors to this, was \$125,000. That is not quite enough to set up a funded reserve so they came up with what they thought was an absolute minimum figure of \$200,000 and would request that it be funded at the rate of no less than \$125,000 annually until such time as it reaches \$600,000, and again, at that time to be reviewed in the light of then current situations. (He gave Councilmembers some material which would clarify some of the information furnished with the agenda.)

Councilmember Dannelly stated then he can readily assume that this is quite an adequate amount to cover past records of claims? Mr. Spivey replied yes; that they have a five-year record and this would be adequate if the future is a duplicate of the past five years. There is always that unknown factor and things can happen, but they believe that the figures they have proposed are minimally adequate.

Mr. Burkhalter stated to give Councilmember Dannelly a full answer, the reason they are doing this to start with is because the premiums were raised considerably over the existing premium and Council authorized that they not pay it again. So, we have not had self-insurance since November 1.

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Mr. Spivey stated the premium under the previous years' policy was right at \$51,000 - \$80 per man. The company went out of business to begin with and the replacement company came in at \$188 per man. That develops a premium that puts us pretty close to where we can invest that and come up with a funded reserve - it is not a true self insurance and they should take note of this. That a true self insurance fund is actuarially correct and set up just as an insurance company would be, so this is not true self insurance in that sense.

Councilmember Selden asked if there is any way of measuring the increased load that would result on the Insurance Advisory Committee, the City Attorney and the administrative staff? Mr. Spivey replied based on the past five-year history, they are talking about six to eight claims per year.

Councilmember Carroll asked that it be added to the motion that the City Manager advise Council of any suits that occur so that they will be aware of them. The motion carried unanimously.

Councilmember Gantt moved adoption of a resolution establishing a procedure for handling claims and lawsuits against the City, its officers and employees. The motion was seconded by Councilmember Short and carried unanimously.

Councilmember Locke moved adoption of the ordinance appropriating funds to a new Civil Claims and Judgments Trust Fund. The motion was seconded by Councilmember Short and carried unanimously.

The resolutions are recorded in full in Resolutions Book 13 at Pages 141 through 144.

The ordinance is recorded in full in Ordinance Book 25, at Page 144.

**ORDINANCE NO. 864 AMENDING THE CITY CODE TO ESTABLISH LICENSING REQUIREMENTS AND PERMIT FEES FOR INSULATION CONTRACTORS.**

Councilmember Locke moved adoption of the subject ordinance allowing the City of Charlotte to license Insulation Contractors and establishing licensing requirements and permit fees. The motion was seconded by Councilmember Gantt.

Councilmember Leeper asked who would enforce this ordinance and how?

Councilmember Gantt stated he had the opportunity to read this piece of legislation before he received it in the Agenda, and as he understands it, Building Inspection has charge of licensing these people. The procedure is generally to verify the business background, the fact that they are not fly-by-night outfits.

Mr. Burkhalter stated the big thing is the City could leave this alone and let the State take care of it, but it would be very difficult for small contractors to get licenses. This permits us to let the small man operate.

Councilmember Leeper asked how the Building Inspection Department would go about enforcing it, when they apply for the permit or what?

Mr. Bill Jamison, Superintendent of Building Inspection, stated the contractors would be licensed by his department first of all; then permits would be issued for work done; and inspections made after the work is completed and during the course of construction. That the ordinance is designed to give a measure of protection to the citizens.

Councilmember Leeper stated that if they do not come in and get a permit then there is no way that the City can enforce it? Mr. Jamison replied it is the same with any other jobs that require permits. Councilmember Leeper asked if Building Inspection enforces things like when a contractor goes

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in and puts up a piece of sheetrock ceiling that has fallen in? Mr. Jamison replied anything that is beyond minor repairs, anything having to do with structural on existing buildings, they issue permits and make inspections. Councilmember Leeper asked if when they make inspections, do they check to see if they have a license. Mr. Jamison replied yes, on those jobs that do require licenses; there are some small contracting jobs that do not require licenses.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 145.

AGREEMENT WITH BURROUGHS CORPORATION FOR MAINTENANCE OF COMPUTER EQUIPMENT;  
STATEMENT BY COUNCILMEMBER COX ON THE PRACTICE HE WILL FOLLOW ON COUNCIL  
DECISIONS INVOLVING IBM.

A motion was made by Councilmember Leeper, seconded by Councilmember Short, authorizing the City to enter into a separate agreement with Burroughs Corporation for maintenance of computer equipment.

Councilmember Cox read the following statement: "As some of you may know, I am a marketing representative of IBM's Large Computer Division. Burroughs and IBM compete in this market. The City is not my account and I do not and will not gain financially by this or any other transactions involving the Municipal Information System Department. However, it is important to avoid conflicts as defined by the City's Code, or even the appearance of one. I will abstain from participating in any decision or vote involving IBM. This will include, for example, purchasing decisions for things such as typewriters and computers, or a decision by a Board of Tax Assessors on the assessment of IBM property."

He asked that Council rule that he is ineligible to consider this item.

Mayor Harris stated he does not believe he should be excused and asked for confirmation by Mr. Bill Watts, Deputy City Attorney, who stated he ought to have a peculiarity interest. The Mayor ruled that Councilmember Cox was eligible to vote in this instance.

The vote was taken on the motion and carried unanimously.

ACRE OF LAND LOCATED OFF GREEN OAKS LANE, NEAR COMMONWEALTH AVENUE, ACCEPTED AS GIFT FROM GEORGE R. TROTTER, ON CONDITION THAT PROPERTY IS FREE AND CLEAR OF ALL LIENS AND ENCOMBRANCES, INCLUDING TAXES, AND THAT SATISFACTORY EVIDENCE IS PROVIDED OF THIS CONDITION; MAYOR ASKED TO REFER MATTER OF DONATION OF LAND TO COMMITTEE FOR DEVELOPMENT OF A POLICY.

Motion was made by Councilmember Locke, seconded by Councilmember Gantt, that the City accept the gift of one acre of land located off Green Oaks Lane, near Commonwealth Avenue, as offered by Mr. George R. Trotter.

Councilmember Short stated this is a small matter which may be considered perfunctory, but there is perhaps a little bit of policy that might be set. That he would suggest that they turn this over to one of the committees. He does not personally want to vote in favor, without some kind of policy established, of the City just taking a piece of land off the tax books without knowing just what is involved and the circumstances, etc. There have been a lot of efforts by people to get things off of the tax books one way or another over the years. He stated these people are friends of his, but in the public interest he feels he has to say this.

Councilmember Short made a substitute motion that this be referred to a committee and Council get some sort of policy about how they are going to handle such matters. The motion was seconded by Councilmember Leeper.

Mayor Harris asked Mr. Burkhalter if the City has such a policy and Mr. Burkhalter replied no.

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Councilmember Carroll stated when Mr. Trotter was before Council to get this on the agenda, he requested that it be acted upon for tax purposes this year. No one had any questions for him at that time about the priority of Council doing this; that he thought Council made an effort to try to get it on the agenda so that he could be accommodated. That he notices that it is adjacent to other City property and it is a creek bank. That he thinks Councilmember Short's comments are perhaps correct, that they should establish a policy, but he feels like they should go ahead and allow this to take place for the donor this year.

Councilmember Short stated Bill Allen brought this up with him and he gave him total silence on the subject, which perhaps said something to him; but apparently he has gone ahead anyway.

Mr. Watts, Deputy City Attorney, stated his office would suggest that this be accepted on condition that the land be free and clear of any encumbrances and liens or taxes and that the donor provide the City with some evidence that such is the case.

Councilmember Locke agreed to accept the additional wording suggested by the City Attorney's Office; and also that the Mayor refer the matter of donation of land to a committee to develop a policy, as requested by Councilmember Carroll.

Mr. Burkhalter stated there are several remarks he would like to make. First, he cannot find any department that wants this land; that he would point out that everytime they acquire an acre the City has to mow it and keep it up; we lose the taxes on it and we do not have any use for it.

Mayor Harris asked what Mr. Burkhalter would recommend in this matter? Mr. Burkhalter replied he would certainly recommend that the City have a policy because coming in here the last week in December, trying to give the City something so it can be written off of the tax rolls is not a good policy. That, frankly, under the circumstances, with everybody thinking it was nice to take the acre of land when Mr. Trotter brought it up the first time, that maybe at this late date they ought to take that acre of land; that we will not go bankrupt by taking one acre. It is his understanding, however, that the donor plans to give the City an acre a year for four or five years and that somebody ought to look into that.

The vote was taken on the substitute motion to refer this to a committee and it failed by the following vote:

YEA: Councilmember Short.

NAYS: Councilmembers Carroll, Cox, Dannelly, Frech, Gantt, Leeper, Locke and Selden.

The vote was taken on Councilmember Locke's original motion, as amended, to accept the gift of one acre of land from Mr. Trotter on the condition that the property be conveyed to the City free and clear of all liens and encumbrances including taxes and that Mr. Trotter, at his own expense, provide the City with satisfactory evidence that the conveyance is made without such encumbrances; and that the Mayor refer the matter of donation of land to a committee to develop a policy. The motion carried unanimously.

#### APPOINTMENT TO COMMUNITY FACILITIES COMMITTEE, DEFERRED.

Councilmember Short moved that appointment to the Community Facilities Committee be deferred, due to the absence of Councilmember Chafin who had made one of the nominations. The motion was seconded by Councilmember Dannelly and carried unanimously.

Councilmember Cox stated he would suggest, and would like to see, on each of these nominations, more information. Specifically, he would suggest a letter or memorandum describing this person's qualifications and why he or she thinks this person is a good nominee. Councilmember Locke called his attention to the two-page memo on her nomination, John J. Huson.

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Councilmember Cox replied they do not have anything on Ms. Morris (the other nominee); he cannot get a feeling for these people from this information; that he would look upon any nomination in the future that did not have a personal reference by the nominator as not worth too much.

Councilmember Locke explained that when she first nominated Mr. Huson Councilmember Cox was not on Council, but she went into a long dissertation as to why he is qualified.

MELVIN L. WATT APPOINTED TO FILL UNEXPIRED TERM ON AUDITORIUM-COLISEUM-CIVIC CENTER AUTHORITY.

On motion of Councilmember Gantt, seconded by Councilmember Dannelly, and carried unanimously, Mr. Melvin L. Watt was appointed to fill an unexpired term on the Auditorium-Coliseum-Civic Center Authority. The term will expire on April 25, 1979.

SETTLEMENT IN CITY OF CHARLOTTE VERSUS WILLIAM H. KOURI, ET AL, SANITARY SEWER TO SERVE MOUNTAINBROOK SECTION 8, PARCEL NO. 1, IN THE AMOUNT OF \$2,400, AND REQUIRING AN ADDITIONAL DEPOSIT OF \$550, APPROVED.

On motion of Councilmember Locke, seconded by Councilmember Dannelly, and unanimously carried, the subject transaction was approved.

COUNCILMEMBER CARROLL EXCUSED FROM VOTING ON NEXT AGENDA ITEM.

On motion of Councilmember Short, seconded by Councilmember Locke, and unanimously carried, Councilmember Carroll was excused from voting on the next agenda item due to a conflict of interest.

SETTLEMENT OF FOUR CONDEMNATION CASES INVOLVING MARSH BROADWAY CONSTRUCTION AND REALTY SYNDICATE, INC., IN THE AMOUNT OF \$26,000 FOR THE CONSTRUCTION OF THE PAW CREEK OUTFALL - PHASE II PROJECT, APPROVED.

Motion was made by Councilmember Selden, seconded by Councilmember Dannelly, to approve the subject settlement.

Councilmember Cox asked if Council ever fights such settlement proposals? That he is new at this; they have given away a lot of money tonight. He would just like a yes or no.

Mr. Watts replied yes, they fight many of them. That before the City Attorney recommends something like this, they consider it very carefully and try to determine whether or not they are of the opinion that the City will get the land for less total cost by settling rather than fighting it.

The vote was taken on the motion and it carried unanimously.

CONSENT AGENDA APPROVED.

On motion of Councilmember Short, seconded by Councilmember Selden, and carried unanimously, the following Consent Agenda items were approved:

- (1) Resolution of Intent to close Lowell Street and setting the date of January 16, 1978 for a Public Hearing on the question.

The resolution is recorded in full in Resolutions Book 13, at Page 145.

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- (2) Loan agreement between the City of Charlotte and each of the following applicants in the amounts indicated:
- (a) Millard S. and Mary E. Lampley, 3019 Yadkin Avenue, North Charlotte, in the amount of \$15,850.
  - (b) John A. and Hattie Williams, 1540 Merriman Avenue, Wilmore/Dilworth, in the amount of \$6,700.
- (3) Encroachment Agreement with North Carolina Department of Transportation for existing water and sewer lines on Black Satchel Road.
- (4) Duke Power easement to Mallard Creek Wastewater Treatment Plant.
- (5) Contracts between the City of Charlotte and the following developers for the construction of water and sewer mains:
- (a) Contract with William Trotter Development Company for the construction of 2,410 feet of 8' and 2' water mains and two fire hydrants to serve Sardis Forest, Section III, outside the City, at an estimated cost of \$22,900.
  - (b) Contract with Carmel Land Company for the construction of 1,190 feet of 6" Cast Iron water main and one fire hydrant to serve Stonehaven No. 40, inside the city, at an estimated cost of \$9,850.
  - (c) Contract with Ralph Squires Company for the construction of approximately 3,534 linear feet of 8" and 6" sewer line to serve Heathergate Subdivision, outside the city, at an estimated cost of \$44,860.
  - (d) Contract with Raintree Corporation for the construction of 3,319 linear feet of 8" sewer line to serve Raintree - Section IV (Fairwood), outside the City, at an estimated cost of \$49,785.
  - (e) Contract with Carmel Road Investments for the construction of 3,901 linear feet of 8" sewer line to serve Carmel Valley - Section I, outside the City, at an estimated cost of \$58,515.
- (6) Resolution providing for public hearings in the Council Chamber, on the second floor of City Hall, beginning at 2:30 o'clock p. m., on Monday, January 23, 1978, on petitions for zoning changes Nos. 78-1 through 78-4.

The resolution is recorded in full in Resolutions Book 13, at Page 146.

RESOLUTION FROM CHARLOTTE CITY COUNCIL TO PRESIDENT OF UNITED STATES CONCERNING BUDGET REQUEST OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

On motion of Councilmember Carroll, seconded by Councilmember Locke, and carried unanimously, the following resolution was adopted for submission to President Jimmy Carter:

WHEREAS, there is a severe shortage of decent, safe, and sanitary housing for low-income people in the City of Charlotte; and

WHEREAS, there is a waiting list of over a thousand families and individuals on the waiting list for conventional public housing, as well as a waiting list of over six hundred families and individuals for subsidized housing under Section 8 of Title II of the Housing and Community Development Act of 1974; and

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WHEREAS, it is virtually impossible to meet the crying need for affordable housing and to eliminate blighted housing without a substantial increase in federally subsidized housing;

THEREFORE, be it resolved that the City Council of Charlotte, North Carolina, hereby strongly urges the President of the United States, Jimmy Carter, to submit a budget to the Congress for fiscal year 1979, which will include the full request of the Secretary of Housing and Urban Development for continuation and expansion of the federal housing programs.

#### REMINDERS AND COMMENTS OF CITY MANAGER.

Mr. Burkhalter reminded Councilmembers of the Economic Development Conference scheduled on Wednesday, December 28, at 4:00 o'clock p. m., at the Chamber of Commerce.

He commented on the Leaf Collection program, stating that this year they wrote out timetables, responsibilities, policies and supervisory positions just for that job. They set up a special information staff for record keeping and had a special telephone number for citizens to call. One thing that paid off was the in-field maintenance of equipment. There were substantially less complaints this year than in any other leaf season. There are an average of four machines operating all of the time and this is possible because of the maintenance situation.

He stated 4,026 tons of leaves were picked up through December 1, as compared to 1,900 tons by December 1 of last year. Through the record keeping they have been able to make better predictions as to when they will be in certain places. The media has been very supportive of this program. They have more requests for the leaves than they have leaves.

He suggested that Councilmembers place the trash pick-up schedule for the Holiday Season which they will receive, on their desks because they are likely to have calls.

#### MAYOR'S CLOSING COMMENTS.

Mayor Harris expressed appreciation to television station WTVI for their coverage of the City Council meeting; and wished everyone very Happy Holidays during this festive season.

#### ADJOURNMENT.

Upon motion of Councilmember Locke, seconded by Councilmember Cox, and unanimously carried, the meeting adjourned.

  
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Ruth Armstrong, City Clerk