

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Monday, May 16, 1966, at 2 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Claude L. Albea, Fred D. Alexander, Sandy R. Jordan, Milton Short, John H. Thrower, Jerry C. Tuttle and James B. Whittington present.

ABSENT: None.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and as a separate Body, held its public hearings on petitions for changes in zoning classifications concurrently with the City Council, with the following members present: Mr. Sibley, Chairman, Mr. Ashcraft, Mr. Gamble, Mr. Lakey, Mr. Tate and Mr. Turner.

ABSENT: Mr. Jones, Mr. Olive, Mr. Stone and Mr. Toy.

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#### INVOCATION.

The invocation was given by the Reverend Wendell G. Davis, Pastor of Midwood Baptist Church.

#### MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Alexander and unanimously carried, the Minutes of the last meeting on May 9th were approved as submitted.

PUBLIC HEARING ON PETITION NO. 66-43 BY JAMES L. HIGHSMITH & COMPANY FOR CHANGE IN ZONING OF A LOT 75' X 185' LOCATED AT 3733 MONROE ROAD, FROM B-2 TO I-1.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, presented a map of the property and surrounding area and stated the request is for the rezoning of a single lot on the north side of Monroe Road, about the fourth lot down from Fugate Avenue, and it is in an industrial area. The land usage in the area is a mixture of predominantly business on both sides of Monroe Road, service stations, airconditioning business, a garage, etcetera, and the property in question is used for a storage warehouse involving assembling process. Across the road there is a veterinarian office, wholesale drygoods, etcetera. Behind the property the usage is entirely singlefamily. The zoning of everything on the south side of Monroe Road going out is Industrial; on the north side of Monroe Road the zoning is B-2 all the way out, with some O-6 zoning on Fugate Avenue as a transition between business and residential; otherwise, the zoning is R-9.

Mr. J. L. Highsmith, Petitioner, advised that the property is owned by J. L. Highsmith & Company. When the property was purchased several years ago they gave preference to it over property located elsewhere for the specific reason that it was zoned Industrial. In addition to their business as Manufacturer's Representative or Sales Agency for certain electric and electronic equipment, they intended doing some assembly work which comprised taking individual instruments made by the companies they

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represent and putting them together into a system, which system can do a job that cannot be performed by the individual instruments. At a later date and before they got into the assembly work, the area was rezoned B-2, and in some way, they were not aware of it until they applied for a building permit and were advised the present zoning would not allow it.

Mr. Highsmith passed to the Council photographs of their building and a brochure giving the general outline of their company. He stated he thinks that manufacturing is an incorrect name for what they are trying to do; however, as far as he can determine, there is no intermediate type of zoning that would cover strictly assembling. If they were installing this equipment, they could apply for a Contractor's license, and there would be no question about it at all. However, they are not installing equipment as such; they are selling it to other people; therefore, they are told this puts them in the category of being manufacturers. He stated this operation is very small; it would be added onto the back of their present building; it would be accomplished entirely indoors with no outside storage and no undesirable by-product. In addition to adding sufficient space for this facility, they would add additional space for their office operation. He called attention that their neighbors are an auto repair shop and an airconditioning business, with storage in the yards.

Councilman Short asked if it is possible that what Mr. Highsmith wants to do could be done by legal interpretation of the present zoning rather than changing the zoning? Mr. Highsmith replied that he would say it is possible; that he does not know enough about the situation with regard to the zoning to say definitely. That they set the manufacturing facility up as a separate corporation, and they did it for accounting purposes, as they had already established procedures for the manufacturers representative business. That when they applied for a permit for the other corporation, they were told it was classified as manufacturing. He stated they have temporarily placed this in another area, and they are going to have to get out of it in the not too distant future, but their real problem is the fact that they use the same men to do the engineering and accounting and office work, and they need to have both businesses together where the entire operation can be supervised.

Councilman Alexander asked if this is an assembly plant and not manufacturing, would it be necessary for the zoning to be changed? Mr. Bryant replied that the assembly of products from previously prepared parts is an Industrial use. The City Attorney stated, in that case, a change in zoning would be necessary.

Councilman Short remarked that he understands that they bought the property with the intention of carrying on the assembly operation, and under the zoning that existed at that time, they could have carried on that operation. Mr. Highsmith stated that is correct; they purchased the property with that in mind and left an area in the back for that purpose.

No objections were expressed to the proposed rezoning.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-44 BY SPANGLER LAND COMPANY, FOR CHANGE IN ZONING OF A TRACT OF LAND 200' X 212' LOCATED ON THE WEST SIDE OF BEATTIES FORD ROAD 140' SOUTH OF KELLER AVENUE, FROM B-1 TO B-2.

The subject petition was presented for public hearing, and the City Council was advised that a petition protesting the change in zoning had been filed by owners of more than 20 per cent of the area within 100 feet adjacent to

one of the side lines of the property requested rezoned, and is sufficient to invoke the 20 percent rule requiring the affirmative vote of six Councilmen in order to rezone the property.

The Assistant Planning Director presented a map of the property and surrounding area and advised that the property is located just south of the Beatties Ford Road intersection. The land usage in the area is primarily University Park Shopping Center and a service station on the corner of LaSalle Street; the land is vacant from that point to Keller Avenue; on the east side of Beatties Ford Road there are service stations and some vacant land; across from the property there is a building that houses doctors' offices and a clinic; next, there is Fellowship Hall, and then a restaurant on the corner. The property to the rear is vacant, and behind the property fronting on Beatties Ford Road, the usage is residential. The zoning is B-1 on both sides of Beatties Ford Road, with the exception of a small B-2 zoning at the intersection with Keller Avenue. The property to the rear and to the east is singlefamily and to the west is multifamily.

Mr. M. A. Lyons, representing the petitioner, presented a sketch of the property and called attention that one corner is already zoned B-2, and what they are asking is actually an extension of that B-2 zoning. That they propose to erect on the property, if the change in zoning is permitted, a Burger Chef Drive-in, and they need the B-2 zoning for this operation. He stated it seems to him that this facility would be an improvement to some of the things across the street, and would be an additional facility for the area. He called attention to individual buildings on Beatties Ford Road that are in bad condition, and some quite dilapidated.

Mr. Norris Smith stated that he is a Real Estate Broker and here to protest the petition for the rezoning of the property in question. That he is a real estate analyst and public relations man, and a citizen of Charlotte interested in the overall outcome of the community. That the petition states the request is to change the subject property from B-1 to B-2 in order to erect a Burger Chef type operation. Primarily, they are protesting the zoning change because they believe if an additional type operation of this sort is put into the area at this time, it will further cause despoliation of the property involved and of the surrounding property. He stated they were able to get the 20 percent rule invoked; whereas, the adjacent property owners were willing to join in with the protest. Mr. Smith pointed out Beatties Ford Road on a map, and the area requested rezoned, which he stated was within 500 feet of West Charlotte High School, within 400 feet of University Park Baptist Church, within 300 feet from the proposed site of the Masonic Hall and within 500 feet from a prime residential area, and it is also in what they consider a prime business area. They believe if a Drive-In restaurant is erected on this property, it is going to do one thing - first, provide a hangout for their youngsters. He stated that all of the youngsters in the Council Chamber today are here in protest to say that they are not interested in any additional hangout; that they have enough in the area.

Mr. Smith read the following Resolution from the Westside Council on Civic Affairs:

"We, the members of the Westside Council on Civic Affairs at a call meeting May 14, 1966, did vote and go on record as being against re-zoning petition 66-44, which would allow change of zoning of property lying on Beatties Ford Road between the University Park Shopping Center and Keller Street from B-1 to B-2.

Whereas it has been brought to our attention that a Hamburger Drive-In is to be erected on subject property pending zone change,

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we believe this type business will cause further despoliation of property and surrounding properties; will provide additional front street hang-outs for our youngsters, will be located too close to our major Schools, Churches, and Residential developments, for these reasons, we are opposed.

The Council further wish to let this resolution be a notice to the City, Community, and the business fronting Beatties Ford Road. We the Westside Council on Civic Affairs are initiating in the near future a war against litter, a war against unsupervised recreational activities, and a clean-up, and a beautification project in general. It is our desire to up-grade the entire community starting with Beatties Ford Road.

Periodically, we will call on the city, the business leaders in the community, and the everyday man in the street. We foresee Northwest Charlotte headed in the direction of old Brooklyn. We voice our pledge as citizens and a Civic minded group to head off this flight before it become uncontrollable.

WESTSIDE COUNCIL ON CIVIC AFFAIRS

John Hairston, Secretary"

He stated the Westside Council of Civic Affairs has also asked him to pass on to the Council that they are making definite plans for this type activity in the area, and they are going to call on the City Council from time to time for aid. He presented a sketch of the area, pointing out the various property in the community and describing its condition; a well-kept Pure Oil Station, Queen City Pharmacy building with the building also used for doctors offices that is a credit to the area; next door, St. Andrew's Lutheran Church, which he stated is not in the best of condition; however, one day this week, the sale of the building will be consummated to one of their fine small construction companies, and they will within thirty days start construction on a \$60,000.00 office building on the site. He stated that this person, in particular, does not want the property requested rezoned to become a hangout because it, together with the other property in the neighborhood, will have a bearing on the property he erects. At the corner is West Charlotte Drive-In, and people who operate a business like this are the people on whom they are going to place the most emphasis; they are the people they want to get to clean up and rid their premises of the typical hangout. There is another Drive-In within three or four blocks down the street, and these are the people that entice their youngsters, and there is where they spend their unsupervised time for recreation. He stated they are interested in this area being a prime business area that will be an asset to the community and to Charlotte. They are not interested in allowing any other places of this type to come into their neighborhood, infiltrating the minds of their young people. They are planning a war against this type thing.

Mr. Smith stated they realize what they have to do; they also realize they cannot do it alone. They are going to need the help, not only of the Council, the other City officials, but the help of other landowners in the area.

He projected some pictures they have taken along Beatties Ford Road to demonstrate what they are going to run up against. He called attention to the abandoned Amoco Service Station located on the corner of Keller and Beatties Ford Road, and stated they would have to call on the City to help them as they do not know just what they can do to get the owners to clean-up the place. Referring back to the picture of the Amoco Service Station

he stated there are a lot of old abandoned automobiles in the rear; the building is run down and nothing is going on there now, and it is just lying there collecting litter. That this is the type of thing they will have to rid Beatties Ford Road of. People who are interested in running a first-class business in this area, creating a benefit to the area and the City of Charlotte as a whole, is what they are seeking. That by this, the area would attract additional business that will be interested in coming into this area and helping them in their financial plight.

Mr. Smith stated that the property lying next to the property in question has been zoned B-2, and the landowner is attempting to further the zoning of B-2 from B-1. Directly behind this property lies a group of beautiful homes - within 500 feet. To the right of the property is West Charlotte High School and University Park Shopping Center. He called attention to another semi-dilapidated building and stated they do not plan to go in and say to the man "clean-up your building, or else," but they plan to go in and ask what they can do to help him clean up the area.

Mr. Smith further stated they have probably 500 names of persons who have signed a petition, which he would file with the City Clerk. He then read the petition which was filed by the property owners on the adjacent and adjoining land which states they as owners of the following listed adjacent and adjoining properties hereby file a petition of restraint for rezoning of subject listed property; that they feel any further changes in zoning in the immediate area from B-1 to B-2 would downgrade the district in general, thus degrading their property causing hardship to their businesses and their neighborhood. That in support of this petition which was filed by the adjacent landowners, they have a petition with 500 names - that 72 of the names were collected at the University Park Baptist Church which is also a piece of property that would be affected. That this petition reads "We, as property owners and interested parties in the general area in question, hereby file this support petition in conjunction with the restraint petition as filed by Norris E. Smith on behalf of adjacent property owners to halt erection of an additional drive-in type restaurant. We believe any further change in zoning of this property (from B-1 to B-2) will cause further despoliation of the area, affecting the existing business and perhaps causing hardship on us and the business which serves us."

Councilman Tuttle stated to Mr. Smith that he thinks he will find this Council more than anxious to help with the rejuvenation and the upholding of the neighborhood. That in this connection Council has already taken one giant step, and if Mr. Smith will call Mr. Jamison in the Inspection Department, he will be able to get some help on this litter right away.

Council decision was deferred for one week.

**PUBLIC HEARING ON PETITION NO. 66-45 BY PRINCE P. HATLEY FOR CHANGE IN ZONING OF A LOT FRONTING 35 FEET ON THE EAST SIDE OF SHARON AMITY ROAD, AND BEGINNING 185 FEET NORTH OF ALBEMARLE ROAD AND HAVING A DEPTH OF APPROXIMATELY 234 FEET, FROM R-9 TO B-1.**

The public hearing was held on the subject Petition.

A map of the property and surrounding area was presented by Mr. Fred Bryant, Assistant Planning Director, who stated that the property in question is an irregularly shaped area adjacent to the corner property on Sharon-Amity and Albemarle Roads. That just recently all four corners of this intersection were rezoned to B-1, and the request before you is to extend the zoning the 35 additional feet of frontage on Sharon-Amity Road. That the land uses in the area are generally a combination of singlefamily with business at the intersection and up Sharon-Amity Road, and there is some vacant property

otherwise around the intersection. He pointed out a doctor's office and a miniature golf range on Albemarle Road, and stated that otherwise the land is generally vacant. At present all four-corners of the intersection are zoned B-1, with the remainder of the property leading towards Independence Boulevard being B-2 on both sides of the road and going on out Albemarle Road, there is single-family zoning R-9 on the left and R-9MF on the right hand side. That the subject property is adjoined on the north side by R-9 and across Sharon Amity Road it is R-9MF.

Mr. Jack Bradfield representing the petitioner stated that Standard Oil Company owns the irregular shaped corner lot and this request is an attempt from an engineering and traffic standpoint to square the corner away so they will have two entrances to the filling station on Sharon Amity Road. That Standard Oil Company plans a Super-service station; they already own the corner and would build on it anyway, but this additional property is needed to make a more efficient and safer proposition.

Mr. Bill Kruger from the Church Council of the Good Shepard Lutheran Church on Albemarle Road stated that just a little over a year ago they fought a petition to have these lots changed. That it has been changed to Business zoning is news to him. He stated that he just happened to be in the audience today about another zoning matter, and if his congregation knew of this request, they would fight it again. At the question of Councilman Albea, if there were any signs on the lot, Mr. Kruger answered none that he knew of. Mr. Bryant, Assistant Planning Director, stated the signs were placed on Sharon Amity Road as the property technically fronts on that street.

Mr. Kruger requested that the hearing be extended, and the Mayor replied that as it is the public hearing and was so advertised, it cannot be extended.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-46 BY ERVIN CONSTRUCTION COMPANY FOR CHANGE IN ZONING OF THE BLOCK BOUNDED BY CEDARHURST DRIVE, WOODSTONE DRIVE AND DALECREST DRIVE, AND OF A LOT APPROXIMATELY 148' X 195' ON THE SOUTHEAST CORNER OF DALECREST DRIVE AND WOODSTONE DRIVE, FROM R-9MF AND I-1 to R-6MF.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, pointed out the subject property and I-85 from the Statesville Road area down to Derita Road, and the subdivided area which is Ervin Construction Company's Derita Woods Subdivision that was started just a few years ago. He stated the subject property is owned by Ervin Construction and the area is being developed for single-family residential purposes. Other than the few homes on Dalecrest and scattered in the area, the property is predominately vacant. That almost out to Derita Road there is a heavy equipment sales company, and across I-85 are two heavy Truck Sales operations. At present the zoning in the area is Industrial along I-85 and along Derita Road; then there is a transitional buffer area of I-1 zoning 400 feet wide, and the remainder of the area is R-9MF. That the request is to change a small portion of the existing I-1 to multifamily, and the remainder from R-9MF to R-6MF.

At the request of Mrs. James Davis, Mr. Bryant explained the difference between R-9MF and R-6MF, stating that both are multifamily which permits apartment use of the property with the primary difference being that R-9MF is a lower density zone than the R-6MF. The R-9MF requires 9,000 square feet of land space for the first unit in a Development and 2,500 square feet for each additional unit; whereas, the R-6MF requires only 6,000 square feet for the first unit and 2,000 square feet for each additional unit - the R-6 being a higher density multi-family zone than the R-9.

Mr. Bill Michael, Attorney for Ervin Construction Company, stated that the requested change from R-9 to R-6, is in order to make it economically feasible to build apartments on the property. The primary purpose is to create a buffer zone between what has been developed as single-family homes throughout the area. That although it is zoned R-9MF, it is developed with single-family houses. That the property is in I-1 and I-2 zones, and they want to put a buffer of multi-family dwellings between Industrial and single-family residences. That in conjunction with this, a new road has been cut from the service road to come into this single-family dwelling area, and in turn these lots have been re-subdivided and enlarged to allow for larger homes.

Mrs. James L. Davis, 2806 Cedarhurst Drive, read the following petition which she filed with the City Clerk:

"We the undersigned, all residents of Derita Woods, ask that the petition for rezoning of property as indicated by notice at Cedarhurst and Dalecrest, from R-9MF and I-1 to R-6MF be denied.

We bought our homes in Derita Woods in good faith, believing that this would be a development consisting of single-family residences that would appreciate in value, or at least maintain such in the future.

We believe that the construction of multi-family residences or apartments in the designated area will, in fact, decrease the value of our property. And in view of this, we consider this possible gain for a few at the expense of many. We, therefore, respectfully request that this petition be denied."

Mrs. Davis stated the petition contains approximately 44 signatures which represents approximately 36 homes that are lived in now, and this represents 27 of them. That most of the people she talked to would rather keep the Industrial zoning than they would to have apartments. That she understands both would decrease the value of their property, and industry would do it more so. That with apartments, you are stuck with them. That she has nothing against them - she has lived in them, but she did not pay over \$11,000 for her home to be right up against them. That if these apartments are brought in, they will stay there, and if she wants to sell, she will have to take a loss. If an industry comes, she would still have to take a loss, but at the same time, they will be having new employees to come, they will be having a change-over, and at the same time, these people might look on their community as a good place to buy and their loss may not be as bad. That those who had asked what would be built out there were told approximately 95 to 98 homes, split-level and so forth, but no mention of apartments were made at the time they bought. Now they go right around the corner and sneak in and want to put in apartments. Why did they not build the apartments first so they would know what they were getting when they moved out there? She requested that the petition be denied.

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Councilman Short asked if there is actually any industry operating out there? Mrs. Davis replied as you come out Graham and turned off to the left on the access road, there is a trucking firm there; there is land as you come in on the right which is for sale or lease as industrial property. So if you are going to have it there, why not have it a half block or block closer.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-47 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION, TO AMEND THE TEXT OF THE ZONING ORDINANCE TO PERMIT EXISTING STRUCTURES IN THE B-3 DISTRICT WITH INADEQUATE YARD SPACE, TO BE USED FOR MULTI-FAMILY PURPOSES UPON APPROVAL OF THE BOARD OF ADJUSTMENT, AND SUBJECT TO CONDITIONS AND CONTROLS IMPOSED BY THE SAID BOARD.

The subject petition was presented for public hearing.

Mr. Bryant, Assistant Planning Director, advised that almost a year ago, as a result of a very extensive study on their part, the City Council adopted changes in the zoning ordinance which made it easier for apartment structures to be built in the Downtown Area. About three or four months ago, they had indications that there were plans afoot to convert at least one existing structure in the Downtown Area for multi-family uses, but the building could not be converted because it had inadequate yard space. That most buildings in the Downtown Area - the B-3 zoning district - do not require any setback, sideyards and so forth; but multi-family residential buildings do. The reason for this is evident, they feel there should be some open spaces around them for light, air and ventilation. In discussing this matter, the Planning Commission decided it would recommend that a public hearing be held on an amendment that would ease the requirements as they relate to existing buildings in the Downtown Area, and at the same time, not open it up for any and all buildings in the Downtown Area to be so converted. They recognize there are some buildings in the Area that might be quite appropriate and quite effective to develop for multi-family purposes, but there are other buildings that would not fit in at all because of the adjoining land uses that might not create a very desirable residential environment and, perhaps, because of the buildings themselves. So, the Planning Commission is recommending at this point that the ordinance be amended in such way that upon appeal to and hearing by the Zoning Board of Adjustment, anyone wishing to convert an existing building in the Downtown Area to multi-family use could make such an appeal, and after a public hearing, the Board of Adjustment, by considering all the factors involved, considering the specific structure involved, the surrounding situation, if they saw fit, could grant permission for these structures to be used for multi-family purposes, but only to the extent that the only requirement that would be waived would be that of yard spaces. That they are stating positively that the building still would be regulated by the density of developments within that building. They are also saying that no structure which contains less than ten dwelling units could be so converted; they are saying this because they feel you are much more likely to get the unsatisfactory conditions for very small buildings that might be converted to multi-family use than you would the larger ones. Finally, only structures which were existing at the time of the passage of the present zoning ordinance would be eligible for consideration for such conversion. This would prevent someone from building a structure now to the non-residential standards, and then coming back in very short time and ask that it be converted for residential purposes.

Mr. Bryant stated this would go before the Zoning Board of Adjustment for their determination, and this is in keeping with the general principles of zoning, as it relates between considerations by Planning Commissions and City Councils and considerations by the Zoning Board of Adjustment. Normally, you would separate these considerations on the basis of really how large a consideration it was. That if you had a conditional use in which you were going to create a whole new district, such as in the B-1SCD, this can affect a rather large area. Therefore, the proper consideration of that would be by the Planning Commission and City Council; but something of this sort which would be of relatively small concern areawise, they feel it is quite appropriate to set it up as a special use and let it be considered by the Zoning Board of Adjustment.

Councilman Tuttle asked Mr. Bryant if he has a case in point? Mr. Bryant replied the situation that brought this to light was the desire on the part of the owners to convert the James Lee Motor Inn to apartments.

Mr. David Grigg stated he is representing Mr. D. L. Phillips, Investment Builders. That this is not a carte blanche right for anyone to convert these existing structures as they will still have to be determined by the Board of Adjustment; that he believes this proposal is in keeping with the interest and the concern that the Council and the rest of the City has for improving Downtown Charlotte, and in keeping people downtown and upgrading property there.

Councilman Tuttle asked if this would make it possible to convert the Professional Building, for example? Mr. Bryant replied it would make it possible after consideration by the Zoning Board of Adjustment; that it is not an automatic thing nor a use by right; but after proper consideration by the Board of Adjustment, if they felt it was in keeping with the objectives of the zoning ordinance for uses in the central business district and by and large it would create a satisfactory residential climate, it could be done.

Councilman Tuttle moved the adoption of Ordinance No. 464 Amending Chapter 23, by adding Sections 23-95.1 and 23-95.2 to permit existing structures in the B-3 District with inadequate yard space, to be used for multi-family purposes upon approval of the Board of Adjustment and subject to conditions and controls imposed by the said Board. The motion was seconded by Councilman Jordan.

Councilman Thrower asked that the record show that the Planning Commission approves this change in the text of the zoning ordinance. Mr. Bryant stated that the Planning Commission records will show that their motion was to approve the change and petition the City Council to hold a public hearing.

Councilman Short stated there is no reference to B-2 or B-1; he asked what the distinction is; why this is oriented to B-3? Mr. Bryant replied that B-3 is a special business district and this is all that it was intended to encompass.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 14, at Page 313.

PUBLIC HEARING ON PETITION NO. 66-48 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION FOR A CHANGE IN ZONING FROM R-6MF AND B-1 TO B-2 OF FIVE TRACTS OF LAND AS FOLLOWS: (1) 3 LOTS 60' X 160' ON THE NORTH SIDE OF SUGAR CREEK ROAD BEGINNING 79 FEET WEST OF THE PLAZA. (2) A LOT 100' X 150' ON THE SOUTHEAST CORNER OF SUGAR CREEK ROAD AND HANSEL TERRACE. (3) PROPERTY ON THE NORTHEAST CORNER OF SUGAR CREEK ROAD AND REDWOOD AVENUE FRONTING APPROXIMATELY 300 FEET ON SUGAR CREEK ROAD AND 230 FEET ON REDWOOD AVENUE. (4) 4 LOTS ON THE SOUTHEAST CORNER OF BEARWOOD AVENUE AND SUGAR CREEK ROAD FRONTING 193 FEET ON BEARWOOD AVENUE AND 93.3 FEET ON SUGAR CREEK ROAD. (5) 4 LOTS AT THE NORTHEAST CORNER OF BEARWOOD AVENUE AND SUGAR CREEK ROAD FRONTING 198.5 FEET ON BEARWOOD AVENUE AND 161.7 FEET ON SUGAR CREEK ROAD.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised that several months ago we had two requests for change in zoning from B-1 to B-2 in this area, one at the corner of Sugar Creek Road and The Plaza and the other down Sugar Creek Road at Dinglewood Avenue; and as a result of those requests, the Planning Commission studied the zoning in general along Sugar Creek Road and the Planning Commission is now recommending that the remaining areas which are zoned B-1 be changed also to B-2 in order to have a more comprehensive zoning pattern in the area.

Mr. Bryant stated there is only scattered B-1 zoning in the area at the present time; one being three lots on the north side of Sugar Creek Road west of The Plaza; another being one lot on the southeast corner of Sugar Creek Road and Hansel Terrace, and the final one being a narrow strip of B-1 from Redwood Avenue up to the railroad. That the remaining area in general is zoned B-2 as far out as the recent change, and Industrial zoning all along the opposite side of Sugar Creek Road and multi-family zoning at the rear of the lots we are considering all the way along.

He stated the land use in the area is a mixture of general business; at the corner of the property, recently changed, is a laundry and soon to be drive-in type restaurant; then residential structures down Sugar Creek Road to Dinglewood, with several different business uses; at the corner of Dinglewood is a paint contractors office and open storage yard; there is a Church at Redwood and Sugar Creek, with a developing industrial complex on the west side of Sugar Creek Road.

Councilman Short asked if a part of this land will be on the Belt Road, but not all of it? Mr. Bryant replied that is correct.

No opposition was expressed to the proposed change in zoning.

Councilman Short remarked that, as this is making the zoning less restrictive on the Belt Road, he would like to have an opportunity to study it during the coming week.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-49 BY V. R. SNIDER AND A. P. PERKINSON, JR. FOR CHANGE IN ZONING OF A LOT 150' X 352.50' LOCATED AT 2934 COMMONWEALTH AVENUE, FROM R-9 TO R-6MF.

The subject petition was presented for public hearing, and the City Council was advised that a petition protesting the change in zoning had been filed by owners of more than 20 per cent of the area within 100 feet adjacent to one of the side lines of the property requested rezoned, and is sufficient to invoke the 20 percent rule requiring the affirmative vote of six Councilmen in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, advised that this a single lot on Commonwealth Avenue, midway the block between Briar Creek Road and Green Oaks Lane. The property in this area is all developed for residential purposes being single-family residential all along the south side of Commonwealth Avenue and also on the north side of Commonwealth, from Briar Creek Road up to the beginning of the Williamsburg Apartment Complex at Green Oaks Lane. There is some vacant land down along Briar Creek, and there is some vacant land in the block in which this change is located, but predominately it is a mixture of single-family and multi-family uses here.

He stated the zoning on the north side of Commonwealth Avenue all the way out to Briar Creek Road is R-6MF and also some R-6MF on the south side of Commonwealth, from Briar Creek over to the first street. That the subject property, as is the entire block in which it is located, is zoned R-9.

Mr Parker Whedon, Attorney representing the petitioners, stated they own the subject property which is a portion of the relatively small island of single-family residential property, consisting largely of houses in the thirty-year-old category, surrounded almost on all sides by multi-family zoning, O-6 zoning and B-1 zoning. That just across the street from this property are rather large complexes consisting of the Jamestown Apartments with 120 units, Williamsburg Apartments with 90 units and within a block Green Oaks Apartments with 276 units. He stated the main contention of the Petitioners is that the character of this neighborhood has changed because of the construction of these large apartment complexes directly across the street, and, also, because of traffic conditions. That the race-way roar of Independence Boulevard is being challenged by the hum of 44,318 vehicles which pass up and down Commonwealth Avenue between 7 a.m. and 7 p.m. everyday by a recent traffic count. He stated they are not asking for a change in the character of this neighborhood as that change has already taken place, and the use of the land will best be served by putting the correct zoning label on the actual character of the land, which they say is multifamily; that the best interest of the neighborhood, not only from a good planning standpoint, but from an economic standpoint, would be served by this change in zoning. That his clients are experienced people in multi-family development, and they realize that this property is more valuable as multifamily, as is the property of the persons who join in the protest, they are in the same boat and the same situation, they can get more value for their property with a multi-family zoning on it than they can with what they now have.

Mr. Whedon stated they realize that every proposed zoning change, particularly this kind, brings forth a reaction and resistance by some people, and this is natural. That he personally knows that some of the persons who have signed a protest petition have mixed feelings about the matter, some of them think the zoning should be changed to an office use, and he thinks that represents some confusion because that is a less restrictive use than the multi-family use his client is requesting - you can put multi-family development in Office zoning. He stated that one or two persons in the neighborhood favor a Business use. That they approached some of the people about joining in a petition for somewhat more extensive rezoning, but for reasons of this kind could not get everybody together; however, there is a general feeling among those he talked with that the character of the neighborhood has changed.

Mr. Hubert E. Stone, 3008 Commonwealth Avenue, stated he lives 75 feet from the lot proposed to be rezoned, and his house is not thirty to forty years old, it is thirteen years old, and he feels it is worth as much as when he bought it, as they have made improvements to it and have kept it in good condition. That his neighbor's house which would adjoin this proposed

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rezoning is also thirteen years old. When this publication was put out, he took it upon himself to sound out his neighbors, and 100 per cent of them were opposed to this rezoning. Everybody on the north side of Commonwealth and Briar Creek Road down to the beginning of Williamsburg Apartments and down to the last family living on Commonwealth and, also, three families living behind this property fronting on Shenandoah Avenue are opposed to the rezoning, and they feel their property would be damaged considerably by the change. That he, personally, feels that having 26 apartments with 45 cars parked 75 feet from his house would almost be a calamity. Furthermore, the entire south side of Commonwealth Avenue is residential; a lot of the people live not exactly across from the property but above it, and while it is not fatal to them, it is not the best having a big apartment house so close to them with bright lights burning at night and maybe a swimming pool with people shouting, and they feel that the peace of their homes would be jeopardized by such a thing as this. That in ratio of property area, the ratio of those opposed to this rezoning would be 12 to 1; also, as to family units concerned, the ratio opposed to this is 15 to 1.

Mr. R. D. Honeycutt, 2830 Commonwealth Avenue, stated he lives two houses from the proposed apartment; that all of that side of the street which he lives on has been and is strictly residential. That he would much prefer keeping it that way, and he hopes Council can see their point.

Councilman Tuttle asked Mr. Stone if all the homes which were shown on the map were owner-homes, and Mr. Stone replied as far as he knows most of them are home owned.

Mr. Whedon remarked he has in his files previous petitions on which they have endeavored to obtain the signatures of adjoining property owners - primarily those between the petitioned property and Rockway Street, and they have been able to get the signatures of three property owners - there are only four or five pieces of property in there. They have never made the effort to get the consent or signature from anybody further out beyond them. That several people who have protested this petition live way on up the street and back on another street; but they have the consent and agreement of Mrs. Quinn who is right next door to their property; a Mr. and Mrs. Besser just a short distance down the street on the corner, and a Mr. and Mrs. Mull, whose property lies almost directly behind the property in question.

Mr. Stone stated one of the first things he did when he heard about this proposal was to check the owners of the property surrounding this lot, and he found that Mrs. Quinn was deceased some time ago, and he was informed that a Mr. McDonald now owns the property, and he told him he was the sole heir, and he would be delighted to sign, and he did not want the property impaired. That he thinks the heir, Mr. McDonald, signing this petition would be pertinent to the case and not what maybe his mother signed two years ago.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-50 BY A. & G. INVESTMENT COMPANY FOR CHANGE IN ZONING OF A LOT 125.0' X 149.92' LOCATED AT 4101 CENTRAL AVENUE, FROM R-6MF to O-6.

The public hearing was held on the subject petition.

The Assistant Planning Director advised that the subject property is located at the intersection of Central Avenue and Sheridan Drive and is occupied by a Doctors Clinic, and the surrounding property is used predominantly for

single-family purposes. There is a church located opposite the property on Central Avenue and another just west of the property. The zoning of the property on the north side of Central Avenue is all Multifamily; otherwise, it is all zoned singlefamily to the rear of the property and across Central Avenue.

Mr. Dotson Palmer, representing the petitioners, Dr. Julian Albergotti and Dr. Jimmy Greenwood, both of whom were present at the meeting, passed to the Council photographs of the Clinic and stated the purpose of the petition is to expand the Clinic. He stated the Third Presbyterian Church and Memorial Methodist Church are located as described by Mr. Bryant. That the residents in general do not oppose their petition for a change in zoning; in fact, they know of only one resident who opposes it. That Mr. Purser, who resides directly across from the Clinic, has given them permission to say to the Council that he is in full accord with the petition and would like to see the change in zoning. He stated the residents of the area are patients of this Clinic and he should think would approve the change in zoning as they are the ones who will benefit from the expansion of the Clinic facilities. That they want to expand the building to provide space for an additional doctor at the Clinic. If the petition is denied, then they must consider whether to seek another location for the Clinic, which would mean an economic lost to Dr. Albergotti and Dr. Greenwood, and it would take medical facilities and services out of this vicinity.

Mr. Palmer stated they realize that this is spot zoning. When they approached the Planning Commission with their request they were very sympathetic and suggested that they see the Board of Adjustment and seek a variance. This they did and the Board said they did not have the authority to grant the variance, and so they are before the City Council today seeking the change in zoning. That their request does not involve a change in the usage of the property; that when the doctors purchased the property in 1960 and erected the Clinic, the zoning permitted this usage. When the Zoning Ordinance was revamped in 1961 or 1962, the Doctors were not aware of what was taking place, and that the property was rezoned R-6MF. Therefore, they are requesting the use of all of the property they purchased at that time, the same as it is being used today. That they are not asking for any greater area, they are merely asking that the Council allow them to construct an additional facility of about 1,000 square feet that will accommodate another doctor at the Clinic, and the addition will be made to the existing building on the east side.

Councilman Whittington asked Mr. Palmer who are the owners of the property east of this lot down to Medallion Drive, and Mr. Palmer replied that he does not know. He then asked where the objector resides that Mr. Palmer referred to, and Mr. Palmer replied that Mr. Bill Kruger is the objector and he is present and, no doubt, prefers speaking himself.

Councilman Albea asked if the petitioners own the lot on which the Clinic is located and also additional land for the construction of the addition to the Clinic? Mr. Palmer replied that is correct, they own the property on which the Clinic is presently located and the adjoining land on which the addition would be constructed.

The Mayor questioned the reported lack of authority of the Board of Adjustment to grant the variance, and Mr. Bryant stated he believes the facts are that the request was not actually filed with the Board, and Mr. Palmer stated that he asked the Board regarding it and was told that there was no use filing a petition with them as they did not have the authority to grant the variance.

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Mr. Bryant explained that this was not a change in zoning that resulted in the present zoning, it was actually a text change. The old original zoning ordinance permitted Doctors Offices in R-2 multi-family districts and the zoning was B-2 when the Clinic was constructed, and the change came about through a change in the text of the Zoning Ordinance.

Mr. Bill Kruger, stated he resides at 4126 Central Avenue, at the time the Doctors built the Medical Clinic the whole neighborhood opposed it because of what could happen to the neighborhood, which was then entirely single-family residential. When the Clinic was built, the zoning of the property was R-2, which permitted them to locate a Clinic there. That the only thing they had in their favor were the restrictions tied in with the property across the street owned by a Mrs. Newland. However, when their Attorneys tried to tie it in with her property to keep the Clinic out, they found that this particular strip of property on Medallion Drive belonged to Mrs. Newland's son, so the restrictions could not apply and they could not overrule it.

He stated that, up until the present time, they have been pretty well satisfied because these Doctors operate a very nice Clinic, and everything is harmonious - in fact, Dr. Greenwood is his family physician and just recently delivered a baby to his wife. He stated that he travels, as do most of the men in the area, and neither he nor anyone else knew anything about this proposed rezoning, nor did they see the Notice placed on the property. That every person he contacted, with the exception of one person, is opposed to any change in the zoning within the area for fear that additional land, presently controlled under the deed restrictions, might also seek a change in zoning, for certainly the owners of the vacant property adjoining and beyond the Doctors could likewise seek a change in zoning. This is single-family residential area - Eastway Park, Medford Acres, etcetera - and there was no reason that any of the area should have been zoned multifamily. He stated the only person in the area who knew about this proposal was the person Mr. Palmer referred to - Mr. Purser, who lives across Central Avenue from the property and two houses from his home. That Mr. Purser is in the real estate business, and his reason for not opposing it is certainly selfish; in fact, he said he wishes the whole area would be rezoned so he could open an office building on his corner as he did on other property he owned on Central Avenue several years ago.

Mr. Kruger stated he has no petition in opposition to the rezoning because he has not had time to get up one, but he is sure he can get one that is 100 per cent throughout the area.

Dr. Greenwood advised Council that they bought all of the land originally when they built their building, and they bought enough land with the idea that they might want at some time to add to their building, so this is not something they have just thought up, and when the land was purchased, they stated what it was to be used for. That he wishes to say that they did not put up the Sign or Notice of the proposed rezoning, the Planning Commission puts up these Signs, and it is right in the middle of a lot which Mr. Kruger drives pass every time he goes home. That Mr. Kruger has spoken for all of the people in the neighborhood, and he would object to that, because he believes they could find some people who would like to have them continue to stay there.

He stated their reason for wanting to expand their building is to be able to give better service to their patients as they are crowded, and in addition to adding a doctor they are going to add some X-Ray equipment, which will be a great help to the people in the neighborhood, because as

it is now when someone has an injured arm, for example, they must send him all the way to town to have it X-rayed. He stated they are not trying to change the character of the neighborhood, they have been there five years, and he thinks most of the neighbors have been happy with the service they have given them, and the addition to the building will be just as attractive as the existing building. That he does not believe the people in the church would object, as they use the Clinic parking lot every Sunday.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-51 BY MRS. JOHN H. LITTLE AND MISS SARA LITTLE FOR CHANGE IN ZONING OF A TRACT OF LAND APPROXIMATELY 180' X 293' ON THE NORTHWEST CORNER OF ALBEMARLE ROAD AND DRIFTWOOD DRIVE, FROM B-1 TO B-2.

The public hearing was held on the subject petition.

Mr. Bryant, Assistant Planning Director, advised that the property is at the intersection of Albemarle Road and Driftwood Drive. The zoning in the area is B-1 all the way around the intersection and changes to B-2 adjacent to the property in question, and the subject property is adjoined at the rear by R-9MF and there is single-family zoning further down Driftwood Drive. The subject property is zoned B-1 and is adjoined by B-2 on one side and by B-1 on two of the other sides.

Mr. Frank Orr, Attorney, stated he represents Mrs. John H. Little, widow, and her daughter, Miss Sara Little, who teaches in a religious school in Richmond, Virginia. That they are requesting merely the continuation of the existing B-2 zoning. The subject property was zoned B-1 by the Council some three months ago when these ladies thought they had a sale for the property under the B-1 zoning but that fell through, and they now have a sale for the property under B-2 and they are, therefore, asking the Council to change the zoning to B-2.

Mr. Bryant explained that the property was zoned multifamily and was rezoned B-1 at the request of the petitioners, now they are petitioning for it to be changed to B-2.

Councilman Tuttle asked what is the planned use of the property, and Mr. Orr replied that it is to be used for a Contractor's building, and they already have a contract with Mr. Rogers who has made a substantial deposit to carry out his contract; that Mr. Rogers is present and will be glad to answer any questions. Mayor Brookshire asked if there would be a warehouse on the property, and Mr. Rogers stated they would have a storage shed on the property but not a large warehouse. Mr. Orr stated that Mr. Rogers would be bound strictly by the B-2 zoning, whatever it allows, if Council will approve the rezoning.

Councilman Tuttle asked Mr. Bryant if in a B-2 zone the storage of old scaffolding and such material is permitted, and Mr. Bryant replied that the ordinance specifically says "contractor's offices and accessory storage yard, excluding storage of general construction equipment and vehicles - in other words, he would not be permitted to have heavy earth moving equipment stored on the property, but could have accessory uses to the construction operation stored on the yard. Councilman Tuttle commented that with all due respect to Mr. Rogers, some contractor's lots he has seen look like junk yards.

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Councilman Whittington asked how far the rear line of Mrs. Little's property will be from the first house on Driftwood, and Mr. Bryant replied that the lot on which the first house is located is adjacent to Mrs. Little's rear lot line, and he would say it would be probably not more than 25 or 30 feet, but this is just a guess.

No opposition was expressed to the proposed rezoning.

Council decision was deferred for one week.

PUBLIC HEARING ON PETITION NO. 66-52 BY BROKERS DISCOUNT CORPORATION FOR CHANGE IN ZONING OF A LOT ON THE NORTHEAST CORNER OF MARVIN ROAD AND BEAL STREET, FRONTING APPROXIMATELY 326 FEET ON MARVIN ROAD AND 174 FEET ON BEAL STREET, FROM R-6MF TO B-1.

The public hearing was held on the subject petition.

The Assistant Planning Director pointed out the location of the property on a map, and stated that it is in the Billingsley Road area, that Beal Street runs into McAlway Road, and the subject property is at the corner of Beal Street and Marvin Road, which runs north towards the Griertown area, although it does not extend into the Griertown area. He stated that this is more or less an isolated detached residential area. The subject property is vacant and is adjoined on the north by a multi-family development; then singlefamily and multifamily and a duplex development along Marvin Road; across Marvin Road from the subject property is vacant; it is also vacant on the east side of the property along Beal Street and then several single-family residences. Across Beal Street from the subject property is a vacant lot, then a vacant house, then another house and church. Otherwise, the area is developed with a combination of duplex, multi-family, and single-family development.

He stated the zoning in the area is predominantly R-6MF; all the area on Marvin Road and Beal Street is R-6MF including the subject property; there is an I-2 area which backs up to the railroad, with single-family zoning south of Beal Street.

Mr. Winifred Erwin, Attorney for the Petitioner, stated they own and became the owner of property in this general area because of their interest in apartments. That he thought since Mr. Bryant mentioned about this being an isolated detached residential area, he should use this and re-emphasize it because this petition was designed to meet the needs and conveniences of just this. The petitioner owns some multi-family units in the area and some of the tenants approached the owners of this property and said they have one major complaint - they have no walk-in type grocery service; they are completely detached from anything else and they have to come down Marvin Road all the way around to Griertown, some eight or ten blocks, and there is a crying need for a grocery store here. With this in mind, the petitioner then contacted one of the larger chains of the 7-11 type grocery, and they made a survey and said this would be an ideal area. Mr. Erwin stated that he has the names of approximately 300 people that live right there who say "this is what we want, and will you please come down and ask the City Council and the Planning Commission to give you the zoning that you would need, so you could put in a 7-11 type grocery for our convenience." That most of these people have to rely on the public transportation system and do not have their own automobiles; many of these housewives do domestic work and come in rather late in the afternoon and have to buy their groceries, and it is inconvenient for them to have to walk ten or twelve blocks to get the things they need. That as far as he knows, there is no opposition.

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Mr. Erwin stated that Mr. McIntyre went over this and said that for some time the Planning Commission has seen the desirability of this type zoning in this general area. Mr. Erwin stated he brought up "spot zoning" and Mr. McIntyre said they would consider this as a "spot residential zone."

No opposition was expressed to the proposed rezoning.

Council decision was deferred for one week.

MEETING RECESSED AT 4:00 P.M. AND RECONVENED AT 4:10 P.M.

Mayor Brookshire called a ten-minute recess at 4:00 p.m. and reconvened the meeting at 4:10 p.m.

RESOLUTION CLOSING BARNHARDT STREET IN THE CITY OF CHARLOTTE.

The public hearing was held on the petition of Barnhardt Manufacturing Company and Richmond Dental Cotton Company for the closing of Barnhardt Street.

Mr. Francis Parker, Attorney, stated he is representing Barnhardt Manufacturing Company and Richmond Dental Cotton Company. That his client proposes to expand his operation and to do some grading in the rear which will affect the street and he would like it closed. Since the fire hydrant at Barnhardt Manufacturing Company would be removed, he spoke to Chief Black this morning, and he suggested moving it out to the intersection to provide fire protection to the property.

Councilman Jordan moved the adoption of a resolution entitled "Resolution Closing Branhardt Street in the City of Charlotte" and that a fire hydrant be located at an appropriate place to provide fire protection to the Company, as suggested by Councilman Thrower. The motion was seconded by Councilman Whittington and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, beginning at Page 260.

COUNCIL URGED TO COOPERATE WITH THE COUNTY IN THE MATTER OF SUPPLYING WATER SERVICE TO THE AREA OUTSIDE OF CHARLOTTE, AND TO REQUEST THE TASK FORCE TO STUDY THE PROBLEM AND MAKE A RECOMMENDATION TO THE COUNCIL AND COUNTY COMMISSIONERS.

Mr. Albert Pearson stated in connection with the water situation, the Task Force has recommended certain things, and the County Commissioners have come up with an idea which has very strong merits. That he thinks if the Council does not look at it from a long range point of view, they will be neglecting to do the most for the people of the community. You have to consider that the same people voted for the City Council as voted for the County Commissioners, plus others. That he does not think there is a man on the County Commissioners that did not receive as many or more votes than anybody on the Council. They are not foreigners, they are not just county people, you cannot separate it and say the City is the City and the County is the County, it is one and the same, practically. If the Council will look at this thing from a logical point of view, from the point of view of how they can best get the City and County and the area paying its fair share in such things as property taxes and things of that sort.

Mr. Pearson stated he happens to be one of those people who believes there should be only one property tax in Mecklenburg County; it should be the same out in the county as for the city because they all share in the liabilities of the city and the assets of the city.

He stated that he thinks unless they ask the Task Force - the paper gives the impression that the Task Force has not really seriously considered the county handling the water problem, and if they did not, then he thinks it is a fair assumption that they did not look into all of the avenue that they could have done on this particular problem. That he would respectfully suggest if they do have a meeting with the County Commissioners on this, that Council ask the Task Force to look into this question in detail along with the others. Failing to do that, he thinks they will be passing up a wonderful opportunity to get the whole area paying their fair share in everything.

ORDINANCE NO. 465-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1222 NORTH CALDWELL STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Jordan moved the adoption of an ordinance entitled: Ordinance No. 465-X Ordering the Demolition and Removal of the Dwelling at 1222 North Caldwell Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 315.

ORDINANCE NO. 466-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1300 NORTH CALDWELL STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Whittington moved the adoption of an ordinance entitled: Ordinance No. 466-X Ordering the Demolition and Removal of the Dwelling at 1300 North Caldwell Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Jordan and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 316.

ORDINANCE NO. 467-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1304 NORTH CALDWELL STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Tuttle moved the adoption of an ordinance entitled: Ordinance No. 467-X Ordering the Demolition and Removal of the Dwelling at 1304 North Caldwell Street, Pursuant to the Housing Code of the City of Charlotte and

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Article 15, Chapter 160 of the General Statutes of North Carolina, which was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 317.

ORDINANCE NO. 468-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1308 NORTH CALDWELL STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Alexander moved the adoption of an ordinance entitled: Ordinance No. 468-X Ordering the Demolition and Removal of the Dwelling at 1308 North Caldwell Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 318.

ORDINANCE NO. 469-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1312 NORTH CALDWELL STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Jordan moved the adoption of an ordinance entitled: Ordinance No. 469-X Ordering the Demolition and Removal of the Dwelling at 1312 North Caldwell Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina, which was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 319.

ORDINANCE NO. 470-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1220-22 NORTH BREVARD STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Alexander moved the adoption of an ordinance entitled: Ordinance No. 470-X Ordering the Demolition and Removal of the Dwelling at 1220-22 North Brevard Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Tuttle and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 320.

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ORDINANCE NO. 471-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1218 NORTH BREVARD STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Alexander moved the adoption of an ordinance entitled: Ordinance No. 471-X Ordering the Demolition and Removal of the Dwelling at 1218 North Brevard Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina, which was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 321.

ORDINANCE NO. 472-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 1908 PARSON STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Tuttle moved the adoption of an ordinance entitled: Ordinance No. 472-X Ordering the Demolition and Removal of the Dwelling at 1908 Parson Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina, which was seconded by Councilman Jordan and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 322.

ORDINANCE NO. 473-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 216 WEST 28TH STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Albea moved approval of an ordinance entitled: Ordinance No. 473-X Ordering the Demolition and Removal of the Dwelling at 216 West 28th Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 323.

ORDINANCE NO. 474-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 300 WEST 28TH STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Whittington moved approval of an ordinance entitled: Ordinance No 474-X Ordering the Demolition and Removal of the Dwelling at 300 West 28th Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina, which

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was seconded by Councilman Tuttle and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 324.

ORDINANCE NO. 475-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 2801 NORTH POPLAR STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Alexander moved approval of an ordinance entitled: Ordinance No. 475-X Ordering the Demolition and Removal of the Dwelling at 2801 North Poplar Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina. The motion was seconded by Councilman Whittington and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 325.

ORDINANCE NO. 476-X ORDERING THE DEMOLITION AND REMOVAL OF THE DWELLING AT 508-10 EAST 16TH STREET, PURSUANT TO THE HOUSING CODE OF THE CITY OF CHARLOTTE AND ARTICLE 15, CHAPTER 160 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Whittington moved the adoption of an ordinance entitled: Ordinance No. 476-X Ordering the Demolition and Removal of the Dwelling at 508-10 East 16th Street, Pursuant to the Housing Code of the City of Charlotte and Article 15, Chapter 160 of the General Statutes of North Carolina, which was seconded by Councilman Albea and carried by the following recorded vote:

YEAS: Councilmen Albea, Alexander, Jordan, Short, Tuttle and Whittington.  
NAYS: Councilman Thrower.

The ordinance is recorded in full in Ordinance Book 14, at Page 326.

ORDINANCE NO. 477 AMENDING AND READOPTING AND CONTINUING IN FORCE CHAPTER 11, "LICENSES" OF THE CODE OF THE CITY OF CHARLOTTE, TO PROVIDE FOR THE LEVYING, ASSESSING, IMPOSING AND DEFINING THE PRIVILEGE LICENSE TAXES OF THE CITY OF CHARLOTTE FOR THE FISCAL YEAR, BEGINNING JULY 1, 1966, AND ENDING JUNE 30, 1967.

Councilman Jordan moved the adoption of an ordinance entitled: Ordinance No. 477 Amending and Readopting and Continuing in Force Chapter 11, "Licenses" of the Code of the City of Charlotte, to Provide for the Levying, Assessing, Imposing and Defining the Privilege License Taxes of the City of Charlotte, for the Fiscal Year, Beginning July 1, 1966, and Ending June 30, 1967. The motion was seconded by Councilman Whittington and carried unanimously.

The ordinance is recorded in full in Ordinance Book 14, at Page 327.

RESOLUTION AUTHORIZING FILING OF AN APPLICATION WITH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, UNITED STATES OF AMERICA, FOR A FEDERAL GRANT TO AID IN FINANCING THE CONSTRUCTION OF WATER DISTRIBUTION SYSTEM TRUNK, MAINS AND ELEVATED STORAGE TANKS.

Councilman Jordan moved approval of the subject resolution, which was seconded by Councilman Tuttle.

Mr. Veeder, City Manager, stated the HUD requires a separate resolution authorizing whoever is going to sign the application to be passed for that application. This will be the second formal application, the first on which we received word that we have received a grant of a million dollars. This will be the second formal application asking consideration for another grant for the same purpose of extending water lines. This would be for improvements both inside the city and improvements outside the city required to serve the city, and improvements outside the city to serve the area including the campus of the University.

Councilman Whittington asked if the County is going to assume any obligation at all in this water and sewer beyond the city? Mr. Veeder replied there is no agreement on that. Councilman Whittington asked if Council approves this application today, are we putting ourselves on the line to go on and do what we have asked them to help us do; if we are, he thinks we are making a mistake.

Mayor Brookshire replied we are simply seeking federal assistance under the 1965 Housing Act that would permit this extension. That we have the site already for putting a storage tank which would increase the pressure for that side of the City, and to extend our line to the storage tank, and the federal money perhaps could be used, maybe, with the \$90,000 which the University has for that purpose, could extend the water lines out to the University.

Councilman Whittington stated he is for a cooperative effort to do all we can to cause Charlotte College to grow and to prosper; but he thinks the Council would be amiss if we took the position that we are going to --- he realizes we cannot spend this money beyond the city limits except to bring in raw water and also for pressure tanks, storage tanks or disposal, but he would hope that what action we take here today would not indicate that we are going to say to the County Government that we are still not expecting them to assume this responsibility of water and sewer beyond the perimeter or beyond the city as it is today.

Councilman Tuttle stated he concurs with Mr. Whittington 100 per cent and thought about this himself and went along with this on the assumption that this takes time, and if we do wind up with cooperation from the County, that we simply would withdraw this application. He asked the City Manager if this is not right?

Mr. Veeder stated he thinks the Council is completely familiar with the situation; that perhaps one of the important things here is the needs of the campus perhaps at the moment, some moment to get this application in the mill. We are in a position to get it in the mill; maybe this is of paramount importance at the moment, and Council would certainly be better able to judge this, and he would think it would be important to get this started.

Councilman Whittington stated he is not opposed to making the application, nor is he opposed to doing all we can to enhance the University at Charlotte,

as it is an institution that will be a tremendous asset to the City not only now but in the future, but he thinks that we as the governing body representing the citizens of Charlotte should not overlook the fact, and should keep the County Commissioners aware of the fact that they have a responsibility in this area, too, and only it being a joint effort will we ever get water and sewer to the county areas and he does not want us to forget that part. That as far as him opposing this, he is not, but if we were going to have to do it all ourselves later, he expects he would be.

Councilman Short stated he would like to underscore very much what Councilman Whittington has said - doubly underscore it - but by way of reconciling this Item 16 with our efforts to interest the County in coming along and helping us with this, he believes Item 16 refers to a bond issue that goes back to January of 1965. He asked if this is not correct? Mr. Veeder replied this interpretation could be attached, yes. Councilman Short stated we are simply realizing federal money out of a bond issue already appropriated, and set up prior to the time we really seriously began negotiation with the County on this sort of common endeavor, and the fact that we subsequently began our conversation for negotiations with them is an interesting point, but at the same time, we do not want to miss federal aid and multiply the value of our money which we already had available before we even started our serious negotiations with them.

Mayor Brookshire remarked that this project comes within the statutory authority of the City to spend the city's money and the fact that there is federal assistance available in this type of program certainly would encourage us to take advantage of that. At the same time, we certainly would not want to leave the County Commissioners with the impression that we have statutory authority to extend water and sewer under circumstances not permitted by the State Statutes, and we have already offered them our services and our cooperation and would hope to hear from them again soon.

Councilman Tuttle stated he does not feel like they think we are going to forget them and certainly we have no intentions of doing it.

Mayor Brookshire remarked that he thinks they realize this is in a different category from the extension of water and sewer generally.

Mr. Veeder commented that perhaps our going ahead and filing this application might be construed as going an extra step here towards the end of recognizing the problems.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, at Page 262.

RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 6, 1966, AT 3 O'CLOCK P.M. ON THE REDEVELOPMENT PLAN FOR REDEVELOPMENT SECTION NO. 5, BROOKLYN URBAN RENEWAL AREA.

A resolution entitled: Resolution Calling For a Public Hearing on June 6, 1966, at 3 O'clock P.M. on the Redevelopment Plan for Redevelopment Section No. 5, Brooklyn Urban Renewal Area, was read, and upon motion of Councilman Whittington, seconded by Councilman Thrower and unanimously carried, the resolution was adopted.

The resolution is recorded in full in Resolutions Book 5, beginning at Page 263.

ACTION ON PETITION NO. 66-39 BY P. O. WILSON FOR CHANGE IN ZONING OF A TRIANGULAR SHAPED TRACT OF LAND FRONTING ON THE SOUTHWEST SIDE OF BELHAVEN BOULEVARD AT GUM BRANCH ROAD, FROM R-9 TO I-1, DEFERRED UNTIL AFTER NEXT MEETING OF PLANNING COMMISSION.

Councilman Short stated in connection with the subject petition the matter was discussed in the Conference session, and he moves that this item be referred back to the Planning Commission on the question of whether they would recommend changing the zoning for 160 feet fronting on Belhaven Boulevard on the eastern end of the property, instead of 100 feet running up from the present zoning. The motion was seconded by Councilman Whittington.

Councilman Tuttle stated his impression was that the Council felt that action on the petition should be deferred and that the petitioner should approach the Planning Commission and ask for this additional rezoning, but not the Council. Councilman Albea stated this was his impression and that is the only reason he would vote for it. Councilman Tuttle stated further he thinks Council would be taking upon themselves suggesting a change without a request from the Petitioner.

Councilman Short commented that he is not sure that he sees the difference but it is all right. Councilman Albea remarked that there is a lot of difference, and he wants it understood thoroughly that the petitioner is to go back to the Planning Commission, and not the City Council, if he wants more of the property rezoned than the 100 feet recommended by the Planning Commission.

Councilman Short remarked that the motion should therefore be that action be deferred until we hear further from the Planning Commission.

Councilman Tuttle stated that he does not think the motion should be like that at all, but that the Council simply defer action and that will give the petitioner the opportunity to take it back to the Planning Commission if he desires.

Councilman Jordan remarked that he thinks in the Conference Session Mr. Short felt that he wants to help the petitioner and the rezoning was possibly due the petitioner. That Mr. Short asked for deferment last week, and he can see no reason why he cannot tell these people that we deferred it today for a week or two, or whatever time it will take for them to petition the Planning Commission to increase this from 100 to 160 feet. Then when it comes back to the Council we will see whether it comes back the same way or not.

Councilman Albea remarked that the way he sees it, if the Council asks the Planning Board to reconsider the matter, that would be an insinuation to the Planning Board that the Council is in favor of increasing the rezoning, and he is not in favor of it, so he does not want to get himself in that position. If the Petitioner wants to go back to the Planning Board, he is willing to give him whatever time it takes, but he does not want the impression left that it was his idea to request that their recommendation be changed.

Councilman Thrower suggested that Councilman Short make his motion that the Petition be deferred and request that the Petitioner take it back to the Planning Commission.

Councilman Tuttle stated that he objects to that. That Mr. Short has a personal interest in this and he wants it deferred -- Councilman Short stated he definitely does not have a personal interest or financial interest in the matter. Councilman Tuttle replied that he did not mean that at all,

that he simply means that Mr. Short has some interest in the petition because he asked for a deferment last week, and he is asking for this additional footage this week --- Councilman Short stated that he just has a Councilman's interest in it --- and Councilman Tuttle stated that, as a Councilman's interest in it, he thinks Council can defer the matter, and then if Mr. Short wants to suggest to the petitioner that they come back again, fine, but beyond that he does not see why the Council should take it upon themselves to fight this man's battle for him; that he would be glad to vote for the deferment of action in order to let Mr. Short do what he wants to with it, but this is as far as he will go.

Councilman Albea stated that he is not going to vote for a deferment and then Mr. Short go over to the Planning Board with it, for that would leave the impression that the Council was in sympathy with it, and he is not in sympathy either way.

Councilman Short suggested that he restate the motion to say that it is simply a deferment, without a stipulated period of time, and he will advise the Councilmen that he will approach the petitioner and ask him to go to the Planning Commission, if they so desire. The motion was seconded by Councilman Tuttle.

Councilman Albea stated he would like a definite time limit, it might drag on two or three months, and he does not like these things hanging fire.

Councilman Short stated this is related to when the Planning Commission meets, and he had hoped to prevent it hanging fire at all and that Council would settle it this afternoon.

Councilman Short reworded his motion that action be deferred on the Petition until after the next meeting of the Planning Commission. The motion was seconded by Councilman Tuttle and unanimously carried.

**PUBLIC HEARING AUTHORIZED HELD ON JUNE 6, 1966, ON A PROPOSED AMENDMENT TO THE ZONING ORDINANCE WITH RESPECT TO AMENDMENTS AND WITHDRAWALS OF PETITIONS FOR THE REZONING OR PROPERTY.**

The Amendment to the Zoning Ordinance With Respect to Amendments and Withdrawals of Petitions for the Rezoning of Property on which a public hearing was held on April 25th, and the Revised Amendment suggested by Councilman Short, were presented for consideration and Councilman Whittington requested that they be read.

Mr. Kiser, City Attorney, read the following Amendment on which the public hearing was held:

"Section 1. Chapter 23, Article VII, Section 23-96 (b) of the Code of the City of Charlotte is hereby amended by deleting the last sentence and inserting in lieu thereof the following:

"A petitioner may amend or withdraw his petition at any time prior to the day on which Council takes action to establish a date for the public hearing and to authorize publication of the legal notice for the proposed amendment, but not thereafter. The public hearing on a petition for an amendment will be held on the proposed amendment as contained in the petition for which Council authorized advertisement.

Section 2. This ordinance shall become effective upon its adoption."

Mr. Kiser then read the following Amendment and stated that it incorporates the thoughts which Mr. Short expressed at the public hearing, and which were submitted for the purpose of determining whether or not Council wanted to have a public hearing on it, or to enact the other Amendment.

"Section 1. Chapter 23, Article VII, Section 23-96 (b) of the Code of the City of Charlotte is hereby amended by deleting the last sentence and inserting in lieu thereof the following:

'A petitioner may amend or withdraw his petition only with approval of the City Council. Requests for permission to amend or withdraw petitions for rezoning must be filed with the City Council prior to the date established for the public hearing. A decision on the request will be made by the City Council on the day of the public hearing. The City Council shall not permit an amendment which would delete a portion of the land originally included in the petition for rezoning when the effect of such deletion would be to change the percentage of votes required for approval of the rezoning. The City Council shall not permit a withdrawal of a petition when protests in opposition to the proposed rezoning sufficient to invoke the three-fourths voting rule have been filed.'

Section 2. This ordinance shall become effective upon its adoption."

Councilman Tuttle stated as he understands it, this will still let the people come before Council, and we could vote a change in zoning if it did not involve the 3/4 rule. The City Attorney replied that is correct, on the date of the public hearing.

Councilman Alba remarked that it would still be up to the Council to pass on it, and the City Attorney stated that is correct except when a petition has been filed invoking the 3/4 rule, then Council does not have any say so over granting or denying an amendment to the Petition, or a withdrawal of the Petition; no amendment or withdrawal can be made in those cases. He stated that what it amounts to is that the only time we know for sure whether a petition in protest, sufficient to invoke the 3/4 rule, has been filed is the day of the public hearing, because the protestors have until Wednesday prior to that date to file their protest.

Councilman Short commented that under the original proposal, the hearing is inevitably and irrevocably held on the date on which the hearing is advertised, which is a month in advance. The only thing that can be done is perhaps to defer it, but it cannot be amended, it cannot be withdrawn, and the only force on earth, he supposes, that could amend one in any way would be a Court's Injunction, because even though the Council themselves might want and badly need to make some amendment, we have set up a procedure whereby we have curtailed our own power. And, therefore, we cannot make any needful amendment whatsoever, even if the Petitioner and the Council wanted to get together and in some way change some part of the geography involved. He thinks this is too stringent, and he does not think that human affairs can be set up that perfectly 30 days in advance, and he does not think that any lawyer is good enough to draw up these petitions that perfectly.

He stated that the second proposed amendment makes that type of approach with reference to those cases where there would be these protestors, but as to all other cases it leaves the Council the power and opportunity to make some change that might be necessary because of some interim situation that might come up. It is to educate the Council on a matter that we have to legislate, and if the Council gets itself in a straight-jacket where

the hearing has got to be held on some awkward type of petition that no longer fits the facts and the people involved, he thinks we are cutting off our own noses in such a situation.. He stated he thinks the Council should be very strict and remove the right to make any amendment or withdrawal where protestors are involved - we should be able to say to these people who come down here and want to make an amendment to cut out the protestors - "We do not have the right, just save your breath, we no longer have the right to participate in such skulduggery." But he thinks as to other matters, this should be left a little fluid up to the time of the hearing, because lawyers are just not good enough to draw these petitions perfectly, and they should have some opportunity to withdraw or to amend where protestors are not involved, and he is going to stick with his suggestion that Council adopt the second proposal.

Councilman Albea remarked that he has asked this question three or four times and he is going to ask Mr. Short again if he does not think that when a petitioner or an attorney asks that a hearing be set up and pays out \$100.00 for an advertisement he should have his case ready? One young lawyer came up here a couple of months ago and wanted his petition withdrawn because he had not prepared his case when he had known for a month that it would be heard on a certain date; it is those loop-holes that get you in trouble more than anything else - at any rate, it has him in this zoning business.

Councilman Short stated that he cannot take the attitude that the Council's authority to grant an amendment is a loop-hole.

Councilman Thrower remarked that he concurs with Mr. Short wholeheartedly. He thinks that the primary function of this Council is zoning, and if we try to remove ourselves from all the bumps, we are going to wind up getting into trouble. And he is sure that lots of times other Councilmen feel this way, on the days of some of these pretty rough zoning cases, he would rather not be here; nevertheless, it is still their primary responsibility, and after we have made it as rigid as possible and charged the fee that we charge these people, they do not come in here half-cocked, usually. The only people who have objected to the procedure are the people who invoke the 3/4 rule. Then we started feeling around with it and granted these people delays, etcetera. He stated that the second version of the Amendment will take care of this.

Councilman Whittington moved that the original Amendment to the Zoning Ordinance, on which the public hearing was held April 25th, be adopted. The motion was seconded by Councilman Albea.

A substitute motion was offered by Councilman Short that the second version of the Amendment presented under the date of May 9th be adopted. The motion was seconded by Councilman Thrower.

Mr. Kiser, the City Attorney, advised that the second version of the Amendment is not in condition to be adopted today; that a public hearing must be held on it before it could be adopted.

Councilman Short amended his motion to provide that a public hearing on the second version of the Amendment be held on June 6th; this was acceptable to Councilman Thrower.

Councilman Alexander asked if the substitute motion provisions will eliminate a petitioner from withdrawing when there have been protests requiring the 3/4 rule? He was advised that is correct, and he then asked if that was not left out in the original motion before Council? Councilman Short

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replied that in the original version no one could get an amendment or withdrawal, whether they were protestors or not, after the Council sets the date of hearing. Councilman Thrower stated that both amendments are restrictive, it just depends on how far you are going to restrict yourself; are we going to restrict ourselves a reasonable amount or are we going to ham-string ourselves? That there is no such thing as a loop-hole, and he resents the implication that somebody is trying to loop-hole in this thing.

Councilman Tuttle stated he cannot see the logic in saying that we are asking for this second version because there may be extenuating circumstances. Could there not also be extenuating circumstances when the 3/4 rule is invoked?

Councilman Short remarked that the extenuating circumstances in the case of the 3/4 rule will be such that will work to the disadvantage of those who have worked to get up these protests, etcetera. Where there are no protestors you would assume the extenuating circumstances are harmless to third parties, and that would be the case almost all of the time.

Mayor Brookshire asked if he is correct in that the first version of the Amendment would completely eliminate the withdrawal of any petitions, whereas the second version would allow the petitioners to withdraw or amend only with the approval of the City Council? Councilman Short replied that is provided there were no protestors and also provided the City Council agreed.

Councilman Short stated his parting shot on this is to underscore what Mr. Thrower has said -- we are voting on restrictions on ourselves. The question is whether we are going to put a very stringent restriction on our own authority and discretion or only what he would take to be a reasonable restriction, such as a Judge in the Court has.

The Mayor called for a vote on the substitute motion that a public hearing be held on June 6th on the second version of the amendment as presented by Councilman Short under date of May 9th.

Mr. Veeder, City Manager, commented that to follow Mr. Thrower's line of reasoning, the point should be mentioned that if Council has the public hearing on the second version, after it is held Council may then decide whether to adopt it or the first version, on which the public hearing has been held.

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

Councilman Albea stated he wants to make it clear that this does not obligate him to vote for the second version in any way; that he has had that thrown in his face before -- why did you vote for the hearing if you were not going along with it -- and he is voting to have the hearing because he does not want to keep any member of the Council from having his side of it heard.

REQUEST OF THE EXECUTIVE DIRECTOR OF CHARLOTTE AREA FUND FOR A JOINT APPROPRIATION BY THE CITY AND COUNTY FOR A HOMEMAKING PROGRAM IN THE CITY AND COUNTY, TO BE INCLUDED IN THE AGENDA FOR THE JOINT CITY-COUNTY BUDGET MEETING.

Mr. Kiser, City Attorney, advised that he has checked with the Attorney General with regard to his recent ruling relative to appropriations to non-profit private corporations; that he also checked with Mr. Zuidema, Executive Director of the Charlotte Area Fund, whose request was that the Council jointly with the County appropriate money to the County for use by the County Agriculture Extension Service. Mr. Kiser stated he is of the opinion that the Council would have the authority to appropriate money for that purpose. He stated that he would like to point out that this

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is a request for budget money beginning July 1st, which is the next fiscal year. That the County was also asked to participate, and he thinks it would be proper for the Council to coordinate its activity with the County on this question and that it would be a proper matter for discussion at the Joint Budget Meeting.

Councilman Jordan moved that the requested appropriation of \$12,096 by the City and County, to be shared equally, for a Homemaking Program be included on the Agenda for the Joint Budget Meeting for consideration by the Council and Board of County Commissioners. The motion was seconded by Councilman Short and unanimously carried.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON JUNE 20, 1966, ON PETITIONS NUMBERED 66-58 THROUGH 66-62 FOR ZONING CHANGES.

A resolution entitled: Resolution Providing for Public Hearings on June 20, 1966, On Petitions Numbered 66-58 Through 66-62 for Zoning Changes was introduced and read, and upon motion of Councilman Whittington, seconded by Councilman Thrower, was unanimously adopted. The resolution is recorded in full in Resolutions Book 5, beginning at Page 266.

CLAIM OF MRS. ANNIE BELOTE FOR PERSONAL INJURIES DENIED.

Upon motion of Councilman Jordan, seconded by Councilman Whittington and unanimously carried, the claim of Mrs. Annie Belote for personal injuries from falling over a raised portion in the sidewalk on Seventh Street, in the amount of \$387.00, was denied as recommended by the City Attorney, who advised the City had no previous notice of the condition of the sidewalk, and is not liable for the injuries to the claimant.

CLAIM OF MRS. D. M. HANKINS FOR DAMAGES TO HER RESIDENCE DENIED.

Councilman Thrower moved that the claim of Mrs. D. M. Hankins in the amount of \$24.04 for damages to her residence at 4222 Blalock Avenue from sewage backing up in the clogged sewer line through the lateral and flooding three rooms, be denied as recommended by the City Attorney who advised that the sewer line had been examined in less than a month, the flooding was not the result of negligence on the part of the City, and the City is not liable for the damages. The motion was seconded by Councilman Jordan and unanimously carried.

PNEUMAFIL CORPORATION AUTHORIZED TO CONNECT PRIVATE SANITARY SEWERS ON CHESAPEAKE DRIVE TO CITY'S SANITARY SEWERAGE SYSTEM.

Councilman Whittington moved that Pneumafil Corporation be authorized to connect their private sanitary sewers on property fronting on the east side of Chesapeake Drive north of Lawton Road, outside the city limits, to the City's Sanitary Sewerage System. Said sewer connection to be made in accordance with the City's specifications and policy covering outside sewer connections. The motion was seconded by Councilman Thrower and unanimously carried.

ANDERSON STREET, FROM SPENCER STREET 350 FEET NORTH TAKEN OVER FOR MAINTENANCE.

Councilman Thrower moved that Anderson Street, from Spencer Street 350 feet north be taken over for city maintenance. The motion was seconded by Councilman Short and unanimously carried.

CONSTRUCTION OF SANITARY SEWER TRUNK IN MAIDEN STREET AUTHORIZED.

Upon motion of Councilman Thrower, seconded by Councilman Albea and unanimously carried, the construction of 496 feet of eight-inch sanitary sewer trunk in Maiden Street, inside the city limits, at the request of W. S. Clanton Realty Company. The construction cost is estimated at \$2,485.00, and will be paid by the Applicant whose deposit of this amount has been received and will be refunded as per terms of the contract.

CONTRACTS AUTHORIZED FOR APPRAISAL OF PROPERTY FOR RIGHTS OF WAY.

Motion was made by Councilman Thrower, seconded by Councilman Albea and unanimously carried, authorizing contracts for the appraisal of property for rights of way as follows:

- (a) Contract with Leo H. Phelan, Jr. for the appraisal of one parcel of land on The Plaza, in connection with Plaza Road Widening Project.
- (b) Contract with Robert R. Rhyne, Sr. for the appraisal of one parcel of land on North Davidson Street, in connection with the North Davidson Street Widening Project.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Albea, seconded by Councilman Tuttle and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots.

- (a) Deed with Mrs. Elsie R. Maresca for the southwest quarter of Lot 65, Section R, Elmwood Cemetery, transferred by the heirs of Mrs. Susan Rainwater-Morton, at \$3.00 for the transfer.
- (b) Deed with Mrs. Elsie R. Maresca for Lot 20, Section V., Elmwood Cemetery, transferred by the heirs of Mrs. Susan Rainwater-Morton, at \$3.00 for the transfer.
- (c) Deed with Frank J. Whitehurst or Geneva Whitehurst, for Lot 427, Section 6, Evergreen Cemetery, at \$240.00.

ACQUISITION OF PROPERTY FOR ROAD WIDENING PROJECTS AND SANITARY SEWER EASEMENT TO EDWARDS BRANCH, AUTHORIZED.

Upon motion of Councilman Short, seconded by Councilman Tuttle and unanimously carried, the following property transactions were authorized:

- (a) Acquisition of 1,963.09 square feet of property at the northwest corner of Woodlawn Road and Park Road, from The Pure Oil Company, division of Union Oil Company of California, in the amount of \$7,850.00, in connection with the Woodlawn Road Widening Project.
- (b) Acquisition of right of way 25' x 36.38' at 3732 Commonwealth Avenue, from Mrs. Edna M. Funderburk, widow, in the amount of \$36.38, for easement for sanitary sewer to serve Edwards Branch.
- (c) Acquisition of construction easement over property of Cecil B. Threadgill at 1440 North Sharon Amity Road, at \$25.00, in connection with the Sharon Amity Road Widening Project.

(Continued)

- (d) Acquisition of construction easement over property of Harry Wayne Eastep and wife, at 1325 Sharon Amity Road, at \$600.00, in connection with the Sharon Amity Road Widening Project.
- (e) Acquisition of construction easement over property of Mrs. Edwina M. Clarke, widow, at 2505 North Sharon Amity Road, at \$10.00, in connection with the Sharon Amity Road Widening Project.
- (f) Acquisition of construction easement over property of Ralph D. Johnston and wife, at 1239 North Sharon Amity Road, at \$250.00, in connection with the Sharon Amity Road Widening Project.
- (g) Acquisition of construction easement over property of James C. Stroupe at 1437 North Sharon Amity Road, at \$300.00, in connection with the North Sharon Amity Road Widening Project.
- (h) Acquisition of construction easement over property of Margaret F. Randleman at 1414 North Sharon Amity Road, at \$400.00, in connection with the North Sharon Amity Road Widening Project.
- (i) Acquisition of construction easement over property of James L. Swofford and wife at 1420 Sharon Amity Road, at \$400.00, in connection with the North Sharon Amity Road Widening Project.
- (j) Acquisition of construction and drainage easement over property of Earnest A. Slagle and wife, at 1401 North Sharon Amity Road, at \$255.00, in connection with the North Sharon Amity Road Widening Project.
- (k) Acquisition of construction easement over property of Richard Jones and wife for damages at 520 Woodlawn Road, at \$10.00, in connection with the Woodlawn Road Widening Project.
- (l) Acquisition of construction easement over property of Lonnie M. Russell and wife, for damages at 512 Woodlawn Road, at \$5.00, in connection with the Woodlawn Road Widening Project.
- (m) Acquisition of construction easement over property of Ralph S. Whitener and wife, for damages at 612 Woodlawn Road, at \$75.00, in connection with the Woodlawn Road Widening Project.
- (n) Acquisition of construction easement over property of C. B. Brown, for damages at 743 Woodlawn Road, at \$10.00, in connection with the Woodlawn Road Widening Project.
- (o) Acquisition of construction easement over property of O. E. Edwards and wife, for damages at 532 Woodlawn Road, at \$25.00, in connection with the Woodlawn Road Widening Project.
- (p) Acquisition of construction easement over property of William B. Yeager and wife, for damages at 830 Woodlawn Road, at \$95.00, in connection with the Woodlawn Road Widening Project.
- (q) Acquisition of construction easement over property of W. F. Goodman and wife, for damages at 541 Woodlawn Road, at \$100.00, in connection with the Woodlawn Road Widening Project.
- (r) Acquisition of construction easement over property of Vance B. Lippard and wife, for damages at 601 Woodlawn Road, at \$150.00, in connection with the Woodlawn Road Widening Project.

CITY MANAGER REQUESTED TO REPORT ON THE QUESTION OF ADOPTING AN ORDINANCE RELATIVE TO THE NUMBER OF FIRE HYDRANTS IN SHOPPING CENTERS.

Councilman Tuttle stated back in October he brought up the question of an ordinance governing the number of fire hydrants in Shopping Centers, and Council at that time went along with the suggestion from the City Manager that he would discuss it with Mr. Jamison and then check with the North Carolina Building Code Council. He asked if anything has come of this?

Mr. Veeder replied he would have to check with Mr. Jamison.

ACTION ON DESIGNATION OF LOCATION OF THE LAW ENFORCEMENT BUILDING DEFERRED FOR ONE WEEK.

Councilman Jordan stated that following the discussion in the Conference Session of the proposed location of the Law Enforcement Building he asked the City Manager if he would check with the parties concerning it, and he did so, and the report is that there is no activity that would change the location from what is presently recommended; therefore, he moves that Council approve the location today that is recommended and as Mr. Veeder has requested. The motion was seconded by Councilman Alexander.

Councilman Thrower stated he thought they had agreed to postpone this one week. That he did not put up much of an argument about it; he offered a substitute motion that this be postponed for one week. The motion was seconded by Councilman Tuttle.

Councilman Short asked Councilman Jordan if there was some particular reason for acting on this today, as he does think they agreed to wait a week. Councilman Jordan replied they did agree to wait a week, but they were just discussing the situation and he asked Mr. Veeder to see if he could contact the people, and if there were any objections or any changes contemplated, and there are none contemplated as far as the location of this building.

Mayor Brookshire remarked that he thinks the deferment in the matter was agreed upon largely at the request of Mr. Jordan and Mr. Tuttle. Councilman Tuttle replied that is right, but he is not aware of what has gone on in the meantime that Mr. Jordan is talking about.

Councilman Jordan stated that Mr. Veeder has talked with Mr. Tate and Mr. McIntyre, and they confirm there is no change contemplated. Councilman Tuttle stated he was not aware of this, and he withdrew his second to Mr. Thrower's motion.

Councilman Jordan stated he suggested that it be postponed for a week in the conference session, and since he asked the City Manager afterwards to get the information, and some of the Council think he should not have asked for it, he will withdraw his motion and support the motion to defer it for a week.

The vote was taken on the motion to postpone the matter for one week and carried unanimously.

CONTRACT AWARDED REA CONSTRUCTION COMPANY FOR ASPHALT RESURFACING VARIOUS STREETS.

Upon motion of Councilman Thrower, seconded by Councilman Albea and unanimously carried, contract was awarded the low bidder, Rea Construction Company, in the amount of \$113,992.00, for asphalt resurfacing various streets.

The following bids were received:

Rea Construction Company	\$113,992.00
Blythe Brothers Company	115,650.00
Dickerson, Inc.	122,520.00

RIGHT OF WAY AGREEMENT WITH THE N. C. STATE HIGHWAY COMMISSION FOR INSTALLATION OF WATER MAINS IN THE NORTH SIDE OF U. S. HIGHWAY 74, FROM WATERMAN AVENUE EAST, AUTHORIZED.

Councilman Thrower moved approval of a Right of Way Agreement with the N. C. State Highway Commission for the installation of a 6" diameter water main in the north side of U. S. Highway 74, from Waterman Avenue East. The motion was seconded by Councilman Albea and carried unanimously.

REQUEST GRANTED DOWNTOWN CHARLOTTE ASSOCIATION TO CLOSE FIFTH STREET, FROM CHURCH STREET TO COLLEGE STREET ON JUNE 2, 3, and 4TH, FOR SUMMER FESTIVAL.

Mr. Veeder, City Manager, stated he has a letter from Mr. Grant Whitney, Chairman of the Advance Activities Committee of the Downtown Charlotte Association; that they will repeat the Festival program they had last year, on June 2, 3, and 4th, and requesting Council approval of the closing of two blocks of Fifth Street from Church Street to College Street during this period, as was done last year.

Upon motion of Councilman Tuttle, seconded by Councilman Thrower and unanimously carried, the request was granted.

ADJOURNMENT.

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

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