

May 18, 1970
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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held on Monday, May 18, 1970, at 2:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmen Fred D. Alexander, Sandy R. Jordan, John H. Thrower, Jerry Tuttle, James B. Whittington and Joe D. Withrow present.

ABSENT: Councilman Short was absent at beginning of meeting and appeared during discussion of Petition No. 70-68.

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: Commissioners Albea, Blanton, Embry, Sibley, Stone and Tate.

ABSENT: Chairman Toy, and Commissioners Brewer, Godley and Turner.

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INVOCATION.

The invocation was given by Reverend James A. Frieson.

MINUTES APPROVED AS CORRECTED.

Upon motion of Councilman Whittington, seconded by Councilman Thrower, and unanimously carried, the minutes of the regular meeting on May 4, 1970, the continued meeting on May 11, 1970 and the regular meeting on May 11, 1970 were approved as submitted with the following corrections:

May 4, 1970 Meeting - Minute Book 53, Page 401 - First line of third paragraph - strike out #223 and #224 and insert "2,23,24".

- Minute Book 53, Page 406 - Second paragraph from bottom of page, second line - strike out \$2.13 and insert "\$1.60".

Later in the meeting, Councilman Short requested that a correction be made on Page 414, the last paragraph showing the vote, as follows:

- strike out the last word and period "unanimously." and insert "by the following vote:

YEAS: Councilmen Tuttle, Thrower, Alexander, Jordan, and Withrow.
NAYS: Councilman Short."

MAYOR ANNOUNCES END OF FIRST YEAR ASSOCIATION WITH COUNCIL AND STATES HIS APPRECIATION FOR COUNCIL'S WORK.

Mayor Belk stated this meeting closes one year of association with this Council; that he has enjoyed the association; that there have been times when perhaps things could have been done better, but he would like to congratulate this Council for its work during the past year. He stated he is looking forward to many and better things during the coming year.

COUNCILMAN WITHROW LEAVES MEETING.

Councilman Withrow left the meeting and returned as noted in the minutes after the completion of the hearing on Petition No. 70-68.

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HEARING ON PETITION NO. 70-66 BY GEORGE GOODYEAR COMPANY AND JOE D. WITHROW FOR A CHANGE IN ZONING FROM R-9 TO R-6MFH OF 13.864 ACRES OF LAND ON THE SOUTH SIDE OF WOODLAWN ROAD, BETWEEN MURRAYHILL ROAD AND FAIRBLUFF PLACE.

The scheduled hearing was held on the subject petition on which a protest petition has been filed and found sufficient to invoke the 3/4 Rule requiring the affirmative vote of six Councilmen in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, stated this petition consists of almost 14 acres of land located on the south side of Woodlawn Road; it fronts in excess of 500 feet on Woodlawn Road and extends back to a little branch that runs along the rear of the property. The property lies to the east of the intersection of Murrayhill Road, and east of the intersection of Rockford Court. It has on it about two single family residences and is adjoined to the west by property that is used for single family residential purposes; to the south it is adjoined by single family residential uses; on the east it is adjoined by a tract of land which is to be considered in the next petition which has on it a single family residence; and by property on Fairbluff Place which is used for single family residential purposes. On the north side, across Woodlawn it has several single family houses; there is a day care center at one point, and at the intersection of Rockford Court and Woodlawn is a business building that is vacant and is being demolished. He pointed out the Grace Methodist Church at Stacy Boulevard and Woodlawn Road.

He stated all the area is zoned for single family residential purposes in the immediate vicinity of the subject property with the exception of the corner of Rockford and Woodlawn Road which is zoned B-1.

Mr. A. C. Coggins, 4651 Fairbluff Place, stated he has a petition signed by residents and property owners objecting to the change in zoning. He stated they object because (1) congestion of automobiles and people in a quiet residential area; (2) safety of their children being endangered to an unnecessary degree; (3) devaluation of established residential property; (4) no other property in the immediate area has been zoned for anything other than single family residences.

Council decision was deferred until the next Council Meeting.

HEARING ON PETITION NO. 70-68 BY WILFORD M. SMITH FOR A CHANGE IN ZONING FROM R-9 TO O-6 OF A PARCEL OF LAND 195' x 552' ON THE SOUTH SIDE OF WOODLAWN ROAD, BEGINNING 182 FEET WEST OF FAIRBLUFF PLACE.

The public hearing was held on the subject petition on which a protest petition has been filed and found sufficient to invoke the 3/4 Rule requiring the affirmative vote of six Councilmen in order to rezone the property.

The Assistant Planning Director advised this request is immediately adjacent to the property under Petition No. 70-66; the subject petition is a request to O-6 zoning whereas the other petition was for R-6MFH.

Mr. Bryant stated this tract of land has on it a single family house; the adjacent land situation is the same as under Petition No. 70-66.

Dr. Wilford M. Smith stated he was displaced from 600 Woodlawn Road on January 7th to make way for a service station and independent food store. He stated he has owned the subject property since 1967 and he feels that an office zone would be in his best interest as well as the community's. That he discussed this with neighbors facing Fairbluff Place and they are more in favor of an office zoning adjoining them as opposed to multi-family. He stated this would be a nice buffer between multi-family zoning and residential zoning.

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Councilman Tuttle asked Dr. Smith how he is going to get into his property? Dr. Smith replied he does not have any immediate plans for the property; that he thought an office zoning would be a good buffer between multi-family and residential and with Mr. Goodyear's petition on the next property he thought it the appropriate time to file the petition. That he has not had any engineering plans made but he is sure it can be worked out.

(COUNCILMAN SHORT CAME INTO THE MEETING AT THIS TIME AND WAS PRESENT FOR THE REMAINDER OF THE SESSION.)

Mr. A. C. Coggins, 4651 Fairbluff Place, spoke in opposition to the petition and stated there are 100% signatures on Fairbluff in opposition to the change in zoning and for the same reasons as stated under Petition No. 70-66.

Council decision was deferred until the next Council Meeting.

COUNCILMAN WITHROW RETURNS TO MEETING.

Councilman Withrow returned to the meeting at this time and was present for the remainder of the session.

MOTION TO CONTINUE HEARING ON PETITION NO. 70-69 FOR ONE WEEK, LOST.

Councilman Short stated some of the petitioner's people advised him a few minutes ago that he thought he had worked out his problems with the protestants and he has gone to New York and his partner has gone to Europe, and they thought this would be routine and they themselves heard that the protest had been filed after they had already left. He stated it is a situation where the petitioner is a little surprised rather than the other way around.

Councilman Short asked if Council can defer this petition? Mr. Underhill, City Attorney, replied it can be continued.

Councilman Tuttle asked how many are present in the audience to protest this petition, and three persons held up their hands.

Mayor Belk asked if the protestants are agreeable to a continuation, and Mr. Walser replied he took time off work to come today, and he would like it heard today.

After further discussion, Councilman Short moved that the hearing be continued until next week. The motion was seconded by Councilman Alexander, and lost by the following vote:

YEAS: Councilmen Short and Alexander.

NAYS: Councilmen Jordan, Thrower, Tuttle, Whittington and Withrow.

HEARING ON PETITION NO. 70-69 BY PINKNEY HERBERT, JR. FOR CONDITIONAL OFF-STREET PARKING FOR BUSINESS PURPOSES ON A LOT NOW ZONED R-6MF AT THE NORTH-EASTERLY CORNER OF DRIFTWOOD DRIVE.

The scheduled hearing was held on the subject petition on which a protest petition has been filed and found sufficient to invoke the 3/4 Rule requiring the affirmative vote of six Councilmen in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property is a single lot located at the intersection of Driftwood Drive and Burner Drive. He stated the petition is for conditional approval for parking. The adjoining property has been developed with a small restaurant and it is the desire of the petitioner to utilize a portion of the subject lot for off-street parking purposes in conjunction with the restaurant operation. All the property along

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Driftwood is used for duplex purposes, as is the property along Rosehaven Drive. At the end of Burner Drive is an apartment building. The other property between the restaurant and Rosehaven is vacant. Along Central Avenue behind the subject property is a grocery store, 7-11 Store and a service station at the corner of Rosehaven; down Rosehaven is a beauty shop and a building used for a dance studio; other property along Central Avenue is utilized for single family residential purposes and then down Winterfield is single family residences in existence.

He stated the property along Central and along Driftwood out to the subject property is zoned B-1; the subject property with the adjacent property along Burner Drive and property across Driftwood is zoned multi-family.

Mr. Bryant stated the parking area that would be utilized in conjunction with the restaurant facility is already paved and in place. According to information he has, it was done without any further permit being issued and without either the Traffic Engineering Department or Building Inspection Department being aware of it. A driveway has been constructed from the parking out to Driftwood without the consent and the necessary permission from the Traffic Engineering Department. He stated he understands the Traffic Engineer has been in contact with the owner in trying to resolve that situation. He stated this is a seafood restaurant that according to the sign opens at 5:00 o'clock in the afternoon; it is a very small building and has just opened within the last week or two; it is called the Gangplank.

Mr. Bryant stated the lot is not paved all the way over to the duplex; there is a small area adjacent to the duplex that is not paved. He stated the parking as shown on the building permit that was issued to the side toward Rosehaven Drive and to the rear of the property; that there is parking on this side and to the rear.

Mr. Sam Williams, Attorney for the petitioner, stated they requested the conditional use parking on the basis that they had a restaurant location planned on the adjacent B-1 lot and had ownership of the additional lot and need approximately 1/3 of the lot for parking purposes so as to have a better shopping center district flow throughout the area. He stated a strip has been paved on the additional lot that is approximately 30 feet wide and about 200 feet long. That through the owners, overtures were made to the adjacent property owner, Mr. Rinaldi, that he notify them of any desires he had relative to establishing a screening area relative to the location of light standards so there would be no hindrance to his residential activity. These discussions were carried on with Mr. Rinaldi by Mr. Powell.

Councilman Whittington asked how deep the business zoning is? Mr. Bryant replied the business zoning is for the full block from Central Avenue back to Driftwood Drive; it is in the neighborhood of 300 or so feet. Councilman Whittington asked if all the dwellings on Driftwood and Burner Drive are duplexes, and if they are individually owned? Mr. Bryant replied they are duplexes and to the best of his knowledge they are individually owned.

Mr. Don Walser, 3734 Driftwood Drive, stated he lives directly across the street from the property. That he has a petition signed by 84 people who oppose the rezoning; that it is 100% of those contacted. That at least 1/2 of the signatures are from the residential homeowners down the street; that the development is partly duplexes and the balance is Winterfield Development and are single family homes.

Mr. Walser stated they oppose the petition because of a traffic problem and they feel the parking needs can be met behind the building rather than coming next door to the Rinaldi's and across the street from his property. He stated the duplexes are individually owned.

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Mrs. M. J. Rinaldi, 3503 Burner Drive, stated the lot in question comes right up to the driveway on the rental side of their duplex; that they are interested in keeping the parking or business from being right next to their driveway which will destroy their rental. That they live in one side of the duplex and rent the other.

Councilman Short stated this is the third time in the last year that someone has apparently paved a parking area either in violation of the building permit or through misconception. He asked Mr. Veeder, City Manager, to have Mr. Jamison, Building Inspection Superintendent, to tighten up his procedures and help on this problem. That he does not know whether building permits are being issued without making it specific enough or whether they are going ahead in violation of a very specific building permit. If there is any laxness on the city's part, it should be corrected.

Mr. Williams stated the property in question is adjacent to B-1 zoned lot which is the lot on which the restaurant is constructed entirely; there is a curb cut on that property; there is also a curb cut on the adjacent lot where they are seeking the conditional parking. The developers had in mind a continuous flow of traffic so as not to have all the cars coming in and exiting from the same driveway. That Mrs. Rinaldi has made it very clear that what she wants is a buffer strip for the property adjacent to her duplex lot. He stated they have left a buffer strip as the paving is now of some 20 to 70 feet. That they would like the opportunity to work this out with Mrs. Rinaldi and with Mr. Walser and the other residents to work out some traffic pattern where as few cars as possible would be on Burner Drive; that he thinks a solution would be advantageous to all the people.

Mr. Williams stated he does not think it is safe to even assume that the work was done without a building permit because they had one. Mr. Veeder, City Manager, replied the plot plan did not show this parking.

Mr. Bryant stated based on conversation with Mr. Dale Long, the plot plan approved as part of the building permit issuance procedure showed the necessary parking on the business zoned side of the lot and some to the rear of the lot; that apparently the parking talked about on this side is in excess of the actual amount of parking that would be required by the zoning ordinance.

Dr. Embry, Planning Commission, suggested that the City Attorney consider action against the violations of this rule for paving, and he thinks this might stop the paving prior to permission to use the property.

Councilman Thrower stated a piece of residential property can be paved; there is just the fact you cannot park any automobiles on it; there is no law broken by paving the property.

Council decision was deferred until the next meeting.

HEARING ON PETITION NO. 70-61 BY MABLE JENKINS FOR A CHANGE IN ZONING FROM O-6 TO B-1 OF A LOT 96' X 200' AT THE NORTHEASTERLY CORNER OF MCALWAY ROAD AND CRAIG AVENUE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property is at the intersection of Craig Avenue and McAlway Road, the corner being closest to the railroad. The property has on it a beauty shop at the corner and the rear portion of the property which is a lot facing on Craig Avenue has a duplex on it; adjoining the property on the railroad side is an office building, a 7-11 Store, then the concrete supply facility. Across McAlway Road there are several houses and then an antique shop and an asphalt mixing plant facility. Across Craig Avenue from the subject property is an apartment facility, then single family residences down Craig Avenue to the rear of the subject property.

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Mr. Bryant stated there is I-2 zoning from the railroad coming down McAlway; the subject property as well as one lot adjoining it is zoned O-6 and comes down to Craig Avenue. From Craig Avenue outward along McAlway Road the zoning is R-6MF on both sides; property to the rear of the subject tract and leading down Craig Avenue on both sides is zoned R-9.

Mrs. Mable Jenkins stated the house at the rear is not a duplex but a house with two front doors. That she has received notice that parking for her beauty shop will have to be 15 feet back from Craig Avenue; she has put a fence around the property, and she now has two entrances.

No opposition was expressed to the proposed rezoning.

Council decision was deferred until the next meeting.

HEARING ON PETITION NO. 70-62 BY JAMES C. ALLISON FOR A CHANGE IN ZONING FROM R-12 TO B-2 OF A TRACT OF LAND 285' X 693' AT THE SOUTHWEST CORNER OF WALLACE NEAL ROAD AND DOWD ROAD (OLD GASTONIA ROAD).

The scheduled hearing was held on which a general protest petition was filed prior to the hearing.

The Assistant Planning Director stated the property is located on the extreme edge of the perimeter area of the zoning jurisdiction and in the Berryhill area. The subject property is located at the intersection of Dowd Road and Wallace Neal Road - west of Wallace Neal Road and south of Dowd Road. The property is vacant and is adjoined on the south side along Wallace Neal Road by land that has a number of single family houses on it; across Wallace Neal Road are single family residences; at the intersection of Dowd Road and Wallace Neal Road is a small grocery store-service station combination; immediately to the rear of that there are two mobile homes; going on down Old Dowd Road there are single family residences. Diagonally across the intersection from the subject property is the Berryhill Baptist Church; immediately across Dowd Road is vacant property; on down Wallace Neal Road are single family residences and going out Old Dowd Road are single family residences. He stated there is considerable vacant land in the area.

Mr. Bryant stated the area is entirely zoned single family at the present time.

Mr. John Hunter, representing Mr. Allison, stated the petitioner has owned this property for some years; due to the surrounding area and the change in the surrounding use of the land it is highly undesirable for residential purposes. That Mr. Allison would like the change to B-2 for two purposes: (1) he would like to put some small stores up for a beauty parlor, hardware store, convenience store and barber shop; (2) he is in the car business and would like to use the front portion that fronts Old Dowd Road for a small used car lot. That the used car lot is the reason for the B-2 classification request.

Mr. Hunter stated across the street is the grocery store and filling station and behind it the mobile homes; down Walkers Ferry Road is the Star Industrial Development; that it is about 1000 feet from Mr. Allison's property line; that actually there is a used body shop already on Walker Ferry Road - Taylor's Body Shop; further down approximately 2500 feet is the industrial development - one of which is Holman-Moody; then further down you get to the airport area.

He stated there is a large number of people in the community and yet he was unable to find any area that was available for a general business type area which they are requesting to service these homes.

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Mr. E. C. Smith stated he has lived in the community for a number of years; that they understand the Planning Commission is in the process now of rezoning, or considering rezoning the entire area; that they are opposed to strip zoning because with strip zoning they will have a hodge-podge area; but with an entire area zoned then they will be getting somewhere. They realize the area is fast changing to industrial, and could be business because it is surrounded by industrial property from Wilkinson Boulevard further down on Old Dowd Road and also on Wallace Neal Road, and on Little Rock Road. That they realize it is coming but they would not like to see strip zoning at this time or any other time.

Councilman Whittington asked if there are plans for the rezoning of the Berryhill Community? Mr. Bryant replied Mr. Smith is probably referring to the fact that they have been working on a land development plan that grew out of the expansion for the airport facility; that they have been working on a study of the whole broad area, in order to eventually have the best pattern of land usage associated with the airport expansion. Up to this point there have been no specific recommendations made and it will be some time before this is complete.

Mrs. Margaret Kelly stated she is about the closest homeowner to the property under consideration; they have been a little country rural area and are three or four miles from any shopping centers, and frankly, they want it this way; they would like to see the community stay as it is. She stated they have been told that the plans for the expansion of the airport will take place over the next 15 year period, and will be done in five year stages; but in the meantime, they feel it would be disasterous to have a group of homeowners having to face a used car lot every morning and every evening. She stated there are 44 signatures on the petition; they could have gotten more. They felt in getting the 44 names they were getting the ones that were particularly adjacent to the property and would be involved in it.

Mrs. Kelly stated if it has to be rezoned, to please keep it a clean rezoning and do the whole thing at one time and not involve the heart of the Berryhill Community in strip zoning.

She stated Mr. M. G. Isley, Principal of Berryhill School for many years, was present in the Council Chamber to speak his opposition to the strip zoning but had to leave for another meeting, and asked that she convey his feelings against the rezoning.

Council decision was deferred until the next meeting.

HEARING ON PETITION NO. 70-63 BY PAW CREEK CHURCH OF GOD AND WAYNE KEENER FOR A CHANGE IN ZONING FROM R-9MF TO I-1 OF PROPERTY ON BOTH SIDES OF A 60-FOOT ROAD NORTH OF MT. HOLLY ROAD, BETWEEN VALLEY DALE ROAD AND THE OLD PAW CREEK SCHOOL.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property does not actually front on any easily recognizable roadway features; it is located to the east of the Presbyterian Church property and fronts on a road called Morningside Road that runs from Valleydale Road out onto Mt. Holly Road. The property is vacant; it is adjoined by vacant property on the west side; partially by the church property and partially by the oil storage tank property; to the south along Mt. Holly Road there are several single family residences; at the intersection of Morningside Road and Mt. Holly Road is an abandoned commercial building; directly across from the subject property is a mobile home and several single family houses along the road; the road is unpaved; on down the road are other single family homes, and a mobile home and a small church around the corner. Other than that the property throughout the area is vacant.

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He stated to the west of the property is all I-2 zoning including the oil terminal area, the old school property and the church property; to the south along the railroad between Mt. Holly Road and Old Mt. Holly Road is industrial zoning; everything else is R-9MF including the subject property; the R-9MF extends from the industrial zoning all the way off the map.

Reverend Chambers, Minister of the Paw Creek Church of God, stated this property was acquired about four years ago with the idea of building a church; that he came to the church about two years ago and immediately petitioned his Council to make a change in plan as this is an undesirable place for a church to be built. That since that time they have acquired property on Little Rock Road, and are in preparation to build there. They have been trying to sell the subject property and have acquired a person interested to buy if they can rezone the property to where he can use it for light industry. Reverend Chambers stated they tried to sell the property for residential use and discussed multi-family uses but this seems to be an undesirable area for residential use.

Reverend Chambers stated they would like to rezone the property so that it can be sold and they can use the money for their church work. He stated their property is not next to the Presbyterian Church; it is located off the main road and fronts on Morningside Road.

Mr. Bryant stated the portion of the property that is actually adjacent to the rear of the church property is actually owned by the other petitioner, Mr. Keener. Reverend Chambers stated Mr. Keener is a member of their congregation, and he bought his lot with the thought of building a home with the church to be located on the adjacent property. Since the change in plans Mr. Keener would like his property rezoned so that he can dispose of it. That a portion of the property connects with the Colonial Pipe Lines, and a portion with the cemetery of the Paw Creek Presbyterian Church.

Councilman Whittington asked if Paw Creek Presbyterian Church is aware of what the Church of God is trying to do, and Reverend Chambers replied he is not sure.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred until its next meeting.

HEARING ON PETITION NO. 70-64 BY GRADY SIGN COMPANY TO CONSIDER CHANGING THE TEXT OF THE ZONING ORDINANCE TO PERMIT IN THE OFFICE DISTRICT ONE DETACHED SIGN OF 50 SQUARE FEET AND TWO WALL SIGNS ON EACH LOT.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director stated this is a text change request and is a proposal to amend the text of the zoning ordinance to change the requirements as they pertain to the location and number of signs permitted in the office district.

Mr. Bryant stated at present in the office district a use may have only one sign per building; it is the option of the owner and occupant of the building as to whether that one sign will be on the building itself or a detached sign that may be out in front or to the side of the building.

Mr. Bryant stated the request today proposes to amend the text of the ordinance to permit three signs on the property; two signs on the building and one that could be detached. This is a request to go from one sign to three signs per building in an industrial district.

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Mr. Zeke Foard, President of Grady Sign Company, stated realizing the aesthetic values that are prevalent in an office zone, they do not wish to disturb the size limitation or the required set back lines in these areas; they merely wish to allow a bank or savings and loan or an insurance company a ground mounted sign as well as an identification on the building - hopefully one set of letters on each elevation.

Mr. Foard stated while he feels very strongly in favor of changing this text he is only a spokesman for the petition and he has petitions signed by ten architects, bankers, designers and insurance companies asking that this segment of the ordinance be changed.

Councilman Whittington stated if in a shopping center a building and loan office and a bank are side by side, will they want to put one detached sign and two attached signs on those two buildings, making six signs? Mr. Foard replied he would think a pole sign for each and some type of identification on two other elevations of the building would do well in that situation.

Mr. Beverly Webb, Attorney, stated he is representing an insurance company that is in the situation of wanting more than one sign at its building and before going to the Board of Adjustment they decided to wait and see what happens to this petition. He stated he understands there has been a great deal of confusion about the ordinance with people trying to put more than one sign in the office zone. The ordinance has been very rigously applied; that the result of that application is quite obvious as driving down any of the office streets now you can see that they are more beautiful than they would have been under a more lax ordinance.

Mr. Webb stated in their particular situation there is a building on the corner and to try to identify it from two sides of the street is somewhat of a problem under the current ordinance. That he is not present to speak in favor of this particular petition nor against it; that he is here to urge strong consideration to some laxity in the present ordinance particularly on corner locations to maybe allow as much as two signs on a corner site or a double exposure site.

No opposition was expressed to the proposed text change.

Council decision was deferred until its next meeting.

HEARING ON PETITION NO. 70-65 BY THOMAS F. RENFROW, MYRTLE R. PENDER AND CHARLES A. PENDER FOR A CHANGE IN ZONING FROM R-9 TO R-6MF OF TWO PARCELS OF LAND FRONTING 620 FEET ON THE SOUTH SIDE OF COSBY PLACE AT 3400 AND 3402 COSBY PLACE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is located on the south side of Cosby Place, which is a street that runs off Arnold Drive. On the property are two single family residences; it is adjoined across Cosby Place by a solid area of single family residential structures; there are single family residential structures to the east along Flynnwood; there are single family structures continuing out Cosby Place toward Arnold Drive. There is one vacant lot immediately adjacent to the subject property. To the south towards Central Avenue there is vacant land and one large home that is located in the area and takes up a good deal of land.

Mr. Bryant stated there is R-6MF zoning along both sides of Central Avenue, from there up to the rear of the subject property it is R-6MF; with that exception the area is entirely zoned R-9.

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Mr. Thomas F. Renfrow, one of the petitioners, stated this is family property all the way from Cosby Place to Central Avenue; that his mother owns the property on Central Avenue, and his brother owns a tract and then his brother and sister and he own a tract and then he and his sister own the subject tract. At present they plan to use Cosby Place as an entrance.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred until the next meeting.

HEARING ON PETITION NO. 70-67 BY THE SALVATION ARMY AND WILLIS I. HENDERSON FOR A CHANGE IN ZONING FROM R-1.OMF TO B-3 OF A PARCEL OF LAND 184' x 175' AT THE SOUTHWESTERLY CORNER OF NORTH POPLAR STREET AND WEST SEVENTH STREET.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director advised the subject property is located at the corner of Seventh Street and Poplar Street; it has on it the facility of the Salvation Army; part of the property has an apartment building on it and faces Seventh Street. Other than that the entire block bounded by Seventh, Church, Sixth and Poplar is used for off-street parking purposes. There is a combination of uses within the vicinity; at the corner of Sixth and Poplar there are several residences; then more parking and a small apartment building; down Seventh Street is an apartment building. He stated there is a large amount of vacant property in the area and this is the result of the demolition action over the last few years in this vicinity.

Mr. Bryant stated the area along Church Street and Sixth Street adjacent to the subject property is zoned B-3; the subject property as well as property along Poplar Street outward and Pine Street and Seventh and Eighth Street is zoned R-1.OMF which is a multi-family high density residential district that regulates the density on the basis of floor ratio rather than the usual land area type of relationship.

Mr. Carlton Fleming, Chairman of the Salvation Army Advisory Board, stated this request is within a block bounded by Sixth Street, Seventh Street, Poplar Street and Church Street; the Salvation Army concurrently owns or is in the process of acquiring 75% of the block; this petition is for a 1/4 of the block located at the corner of Seventh and Poplar Streets on which the Salvation Army now has located and in operation their men's transient center which was built some 12-14 years ago. The only other property on the Seventh Street side which is not owned by the Salvation Army is the 53 foot lot owned by Willis Henderson as Trustee on which is located an apartment house; that Mr. Henderson has joined in this petition.

Mr. Fleming stated if the petition is granted then the entire block will be in a B-3 zoning district which is consistent with everything from here to there.

He stated the Salvation Army has in mind for this property their new Women's Transient Center / ^{and} their city command office space. The old red building presently on the property will be torn down and this will be left as a parking lot. That the request from multi-family to B-3 is so that it can be used as a transient center / ^{and} office building for the Salvation Army City Command which would not be permitted under the present classification. B-3 will be consistent with the rest of the block; also in order to locate this facility on the lot and to comply with the setback requirements it will be necessary to have B-3 zoning. That is true also of the parking requirements because there is no proposal to have any parking on this particular lot.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred until the next Council meeting.

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HEARING ON PETITION NO. 70-70 BY THE HERTZ CORPORATION TO CONSIDER CHANGING THE TEXT OF THE ZONING ORDINANCE TO PERMIT AUTOMOBILE RENTAL FACILITIES TO BE LOCATED IN B-1 DISTRICT.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is a request to amend the text of the zoning ordinance to permit rental automobile facilities to locate in B-1 districts; at present this type of facility must be located in a B-3 classification.

A representative of the Hertz Corporation stated they would like to locate an agency in a Pure Oil Service Station as they have a large number of accounts at the location such as Celanese, DuPont, and Eastern. That they want to locate four cars there; that normally they transport these from Tryon at the Manger Motel.

Councilman Tuttle asked if they plan to use a sign; and the representative replied they plan to place a small sign inside the building on the window.

Mr. Bryant stated this particular location is the Pure Oil Station on Fairview Road right beside the small shopping center. That a sign could be placed on the building; they would not be able to have a separate detached sign assuming the service station has the one permitted detached sign. That a truck rental is listed separately in the ordinance.

Mr. Bryant stated if the ordinance is amended to permit automobile rental facilities in a B-1 zone it can be located in any B-1 district.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred until the next Council Meeting.

MEETING RECESSED.

Mayor Belk called a recess at 3:45 o'clock p.m., and left the Chair to return later in the meeting as noted in the minutes.

MEETING RECONVENED.

The meeting was reconvened at 4:00 o'clock p.m., with Mayor pro tem Whittington presiding.

EXPLANATION OF PROPOSED AMENDMENTS TO INSTITUTIONAL DISTRICT.

Mr. W. E. McIntyre, Planning Director, stated the regulations for the proposed Institutional District were reviewed some months ago when the matter was up for public hearing; since that time the Planning Commission had made two sets of modifications. The original set of modifications had to do with permitting conditional uses being pursued without paying a \$100 filing fee. The modifications as recommended by the Commission before clarified the list of existing uses that are established in the Institutional District that would be authorized as conditional uses conventionally under the provisions of the ordinance. Clarification was made that any conditional uses existing in the Institutional District prior to the adoption of the district would be regarded as conforming uses - they could expand, they could build without having to file a specific applications for zoning hearings. In addition to those modifications in the Institutional District the Planning Commission since its last communication with Council has made one other modification that would propose to further simplify the conditional use approach as it was originally proposed.

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Included in material sent out with the agenda is an item entitled "Petition No. 70-1, Revised Draft Institutional Zoning amendment". On Page 5 of that material is the matter that involves a change in the Institutional regulations the Planning Commission has now recommended.

Mr. McIntyre stated under the previous provision before a use listed as a conditional use could be established, it was required that there would be a public hearing in the same manner that you have public hearings to amend the zoning ordinance. Under the revised proposal the list of uses that have previously been categorized as conditional uses are established as Special Use Permits. Under the special use permit provisions of the ordinance a public hearing will no longer be required to authorize one of the uses as listed as a special use permit item. Under the proposed revision an application will be filed with the Planning Commission and the Planning Commission will make its recommendation on the matter to the City Council and the City Council will then take action to either authorize or not authorize the special use.

Mr. Joe Grier, Attorney, stated after the public hearings had been completed the University of North Carolina Foundation asked him to participate for the Foundation in undertaking to work this matter out in a way that, if possible, would be satisfactory to the property owners concerned, and giving place to the large public interest that exist with respect to this matter.

Mr. Grier stated he would like to endorse the proposals that have been submitted by the Planning Commission with respect to the regulations applicable to the Institutional zoning. It seems to him that the changes that have been made are highly advantageous.

He stated the notion of a special use permit without a public hearing is an improvement in the procedure. That one of the things he and Councilman Alexander, as members of the Charter Commission, have been most impressed with in studying the government in Charlotte-Mecklenburg is the necessity to find some means by which the governing body will not have to take the amount of time it now has to take in public hearings with respect to zoning matters. Another provision in the regulations which seems to him to be a change is the provision that says from an adverse determination by the Council that an appeal should be made in Superior Court the same as from a ruling by the Board of Adjustment. That in such an appeal the property owner goes into Superior Court with an even chance and not with the burden of showing the Council abused his governmental authority.

Mr. Grier stated the concept of what existing uses are allowed to do in the area has been enlarged from the very beginning because it now provides that any use in existence at present will be regarded as a conforming use; it provides that any use may be expanded and rebuilt as a conforming use. The \$100 filing fee has been eliminated, the two year waiting period has been eliminated, and what you can do with respect to motels and facilities serving food and beverage in restaurants has been expanded. In addition the uses permitted as a matter of right in the Institutional zone have been enlarged.

He stated the recommendations made by the Planning Commission have already been adopted by the County Commissioners. He urged Council to adopt the plan as proposed by the Planning Commission.

ORDINANCE NO. 606 AMENDING CHAPTER 23 TO ESTABLISH A NEW ZONING DISTRICT TO BE KNOWN AS THE INSTITUTIONAL DISTRICT.

Councilman Short moved the adoption of the subject ordinance amending the text of the zoning ordinance to incorporate the Institutional Zone as now presented and amended by the Planning Commission. The motion was seconded by Councilman Tuttle, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, beginning at Page 100.

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ORDINANCE NO. 607-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE BY AMENDING THE ZONING MAP CHANGING THE ZONING OF PROPERTY BOUNDED ON THE NORTH BY THE CHARLOTTE PERIMETER LINE AND THE SOUTHERN PROPERTY LINE OF LAND OWNED BY FRANK RATCLIFFE, ON THE EAST BY U. S. HIGHWAY 29, ON THE SOUTH BY HARRIS BOULEVARD AND ON THE WEST BY INTERSTATE HIGHWAY 85.

Motion was made by Councilman Short, seconded by Councilman Tuttle, and unanimously carried, adopting the subject ordinance changing the zoning from R-12, RE and B-2 to INSTITUTIONAL, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 113.

ORDINANCE NO. 608-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY MALLARD CREEK CHURCH ROAD, ON THE EAST BY MARY ALEXANDER ROAD AND N. C. HIGHWAY 49, ON THE SOUTH BY HARRIS BOULEVARD AND ON THE WEST BY U. S. HIGHWAY 29.

Councilman Alexander moved the adoption of the subject ordinance changing the zoning from R-12, R-12MF and B-2 to B-1 and INSTITUTIONAL, as recommended by the Planning Commission. The motion was seconded by Councilman Tuttle, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 114.

ORDINANCE NO. 609-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY HARRIS BOULEVARD, ON THE EAST BY N. C. HIGHWAY 49, AND THE REAR OF LOTS ON SHADY HILLS CIRCLE, ON THE SOUTH BY LAND OWNED BY MILAS W. NEAL AND TO THE WEST BY U. S. HIGHWAY 29.

Upon motion of Councilman Thrower, seconded by Councilman Withrow, and unanimously carried, the subject ordinance was adopted changing the zoning from R-12, R-12MF and B-2 to INSTITUTIONAL, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 115.

MOTION TO PROCEED WITH DECISION ON PETITION NO. 70-3 ADOPTED.

Councilman Jordan moved that Council now consider Petition No. 70-3 for a change in zoning. The motion was seconded by Councilman Thrower, and after discussion the vote was taken and carried by the following vote:

YEAS: Councilmen Jordan, Thrower and Withrow.

NAYS: Councilmen Alexander, Short and Tuttle.

Mayor pro tem Whittington broke the tie vote voting in favor of the motion.

PETITION NO. 70-3 TO CHANGE THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY THE CHARLOTTE PERIMETER LINE, ON THE EAST BY U. S. HIGHWAY 29, ON THE SOUTH BY THE SOUTHWESTERN PROPERTY LINE OF PROPERTY OWNED BY FRANK RATCLIFFE, AND ON THE WEST BY THE CHARLOTTE PERIMETER LINE, DENIED.

Mr. McIntyre, Planning Director, explained the subject petition for a change in zoning from R-12 and B-2 to INSTITUTIONAL and B-1 on which protest petition have been filed and found sufficient to invoke the 3/4 Rule requiring the affirmative vote of six (6) Councilmen in order to rezone the property.

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Councilman Alexander moved adoption of an ordinance changing the zoning as recommended by the Planning Commission. The motion was seconded by Councilman Tuttle.

Councilman Jordan made a substitute motion to deny the petition and the property remain as it is presently zoned, R-12 and B-2. The motion was seconded by Councilman Thrower on condition.

Councilman Short stated the Planning Commission has attempted to locate business properties at the corners of the Campus and in order to do that they have had to take away B-2 or B-1 zoning from a number of individuals; by its votes of the last few minutes Council has already taken it away from five individuals because their land was so situated that it constituted fingers into the campus in such a way as to harm the environment; that he believes the Planning Commission's concept is correct; that Mr. Jordan's motion is leaving a long finger running down into the middle of the campus; that he does not see how Council can leave this one and take it away from those that we have already taken it away from, and others that are coming.

Councilman Withrow stated it was his understanding that some of the other property owners were satisfied; that the motel can be expanded and the owner was satisfied with this type of zoning. Councilman Short stated Mr. Smith and Mr. Perry asked to continue the B-2 zoning and this was denied them. Councilman Withrow stated after it was explained that they can expand their motel on the property they now have that they were happy. Councilman Short stated the zoning proposed for the golf course makes it a conforming use and it can be expanded or used as a conforming use.

The City Attorney advised in order to change the zoning since protest petitions have been filed to invoke the 3/4 Rule, the law requires 3/4 affirmative vote of all members of the Council; in this case it means six affirmative votes to change the zoning.

The vote was taken on the substitute motion to deny the petition, and the votes were cast as follows:

YEAS: Councilmen Jordan, Withrow, and Thrower.
NAYS: Councilmen Alexander, Short and Tuttle.

The City Attorney advised the Mayor pro tem that his vote cannot change the outcome of the matter, and it will not be necessary for him to break the tie.

The vote was taken on the main motion for the record, and lost for the lack of six (6) affirmative votes:

YEAS: Councilmen Short, Tuttle and Alexander.
NAYS: Councilmen Jordan, Withrow and Thrower.

ORDINANCE NO. 610-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY BOUNDED ON THE NORTH BY MARK TWAIN ROAD AND CONTAINING AN AREA LOCATED WEST AND SOUTH OF THE COLLEGE DOWNS SUBDIVISION TO A LINE 1,000 FEET PARALLEL AND EAST OF THE WESTERN PROPERTY LINES TO A POINT AT THE INTERSECTION OF UNIVERSITY CITY BOULEVARD AND CAROLYN LANE AND THEN NORTH ALONG UNIVERSITY CITY BOULEVARD TO MARK TWAIN ROAD.

Councilman Thrower moved adoption of the subject ordinance changing the zoning from R-12 and R-12MF to INSTITUTIONAL, as recommended by the Planning Commission. The motion was seconded by Councilman Withrow and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 116.

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ORDINANCE NO. 611-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY MALLARD CREEK CHURCH ROAD, ON THE EAST BY THE CHARLOTTE PERIMETER LINE, ON THE SOUTH BY AN IRREGULAR SHAPED BOUNDARY TO THE NORTHEAST OF THE COLLEGE DOWNS SUBDIVISION, AND ON THE WEST BY UNIVERSITY CITY BOULEVARD.

Upon motion of Councilman Withrow, seconded by Councilman Tuttle, and unanimously carried, the subject ordinance was adopted changing the zoning from R-12MF and O-15 to INSTITUTIONAL as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 117.

ORDINANCE NO. 612-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY THE NORTHERN PROPERTY LINE OF OTIS L. BURRIS, ON THE EAST BY THE CHARLOTTE PERIMETER LINE, ON THE SOUTH BY AN EXISTING I-2 DISTRICT AND ON THE WEST BY UNIVERSITY CITY BOULEVARD.

Motion was made by Councilman Tuttle, seconded by Councilman Short, and unanimously carried, adopting the subject ordinance changing the zoning from B-2 to B-1, as recommended by the Planning Commission.

Councilman Short moved that the Planning Commission be instructed to proceed with another public hearing on a petition to change the R-12MF portion to B-1. The motion was seconded by Councilman Thrower, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 118.

ORDINANCE NO. 613-Z AMENDING CHAPTER 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY BOUNDED ON THE NORTH BY THE CHARLOTTE PERIMETER LINE AND EXISTING PROPERTY LINE TO THE NORTH OF MARILYN DRIVE, ON THE EAST BY UNIVERSITY CITY BOULEVARD, ON THE SOUTH AND WEST BY MARY ALEXANDER ROAD, MALLARD CREEK CHURCH ROAD AND U. S. HIGHWAY 29, EXCLUDING AN AREA AT THE NORTHEAST CORNER OF UNIVERSITY CITY BOULEVARD AND MALLARD CREEK CHURCH ROAD WHICH IS ALREADY ZONED B-1.

Councilman Tuttle moved adoption of the subject ordinance changing the zoning from R-12MF and B-2 to INSTITUTIONAL and B-1, as recommended by the Planning Commission and that the Planning Commission be instructed to proceed with the necessary steps for a public hearing at the same time as the hearing under Petition No. 70-8. The motion was seconded by Councilman Withrow, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 119.

ORDINANCE NO. 614-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY BOUNDED ON THE NORTH BY THE CHARLOTTE PERIMETER LINE, ON THE EAST BY UNIVERSITY CITY BOULEVARD AND ON THE SOUTH AND WEST BY EXISTING PROPERTY LINES RUNNING IN A NORTHWESTERLY DIRECTION AND TO THE NORTH OF MARILYN DRIVE.

Upon motion of Councilman Jordan, seconded by Councilman Withrow and unanimously carried, the subject ordinance changing the zoning from R-12MF to R-9 as recommended by the Planning Commission was adopted, and is recorded in full in Ordinance Book 17, at Page 120.

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ORDINANCE NO. 615-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM B-2 TO B-1 OF PROPERTY BOUNDED ON THE NORTHWEST BY UNIVERSITY CITY BOULEVARD, ON THE EAST BY THE CHARLOTTE PERIMETER LINE, AND ON THE SOUTHWEST BY THE NORTHERN PROPERTY LINE OF OTIS L. BURRIS.

Motion was made by Councilman Alexander, seconded by Councilman Thrower, and unanimously carried, adopting subject ordinance as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 121.

ORDINANCE NO. 616-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM R-12MF TO R-12 OF PROPERTY BOUNDED GENERALLY BY SUTHER ROAD ON THE NORTH AND EAST, ON THE SOUTH BY THE SOUTHERN BOUNDARY OF THE COLLEGE DOWNS SUBDIVISION, AND ON THE WEST BY THE REAR LOTS OF THE COLLEGE DOWNS SUBDIVISION PARALLEL TO UNIVERSITY CITY BOULEVARD.

Councilman Jordan moved adoption of the subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Tuttle, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 122.

ORDINANCE NO. 617-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM R-12 TO R-12MF AND B-1 OF AN AREA APPROXIMATELY 1900' x 1200' AT THE NORTHWEST CORNER OF OLD CONCORD ROAD AND ROCKY RIVER ROAD, AND AN AREA APPROXIMATELY 1700' x 600' AT THE SOUTHEAST CORNER OF THE SAME INTERSECTION.

Upon motion of Councilman Thrower, seconded by Councilman Jordan, and unanimously carried, the subject ordinance was adopted as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 123.

ORDINANCE NO. 618-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM R-12 TO B-2 OF PROPERTY OWNED BY ROCK INVESTMENT COMPANY AND GENERALLY EAST OF U. S. HIGHWAY 29 AND N. C. HIGHWAY 49 AND NORTH OF SANDY AVENUE, BOUNDED GENERALLY ON THE SOUTH BY THE REAR LOT LINES OF LOTS FRONTING SANDY AVENUE, ON THE WEST BY THE EXISTING B-2 ZONING, AND ON THE EAST BY A LINE WHICH IS APPROXIMATELY 1400 FEET EAST OF NORTH TRYON STREET.

Motion was made by Councilman Withrow, seconded by Councilman Alexander, and unanimously carried, adopting subject ordinance as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 124.

ORDINANCE NO. 619-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM R-12 TO B-2 OF THE REMAINDER OF THE PARCEL OF LAND OWNED BY MILAS W. NEAL WHICH GENERALLY LIES SOUTHEAST OF THE EXISTING DUKE POWER SUBSTATION NEAR THE INTERSECTION OF U. S. HIGHWAY 29 AND N. C. HIGHWAY 49.

Councilman Jordan moved adoption of subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Thrower, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 125.

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ORDINANCE NO. 620-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM R-12 TO O-6 OF PROPERTY GENERALLY LOCATED AT THE SOUTHWESTERN CORNER OF THE INTERSECTION OF HARRIS BOULEVARD AND U. S. HIGHWAY 29.

Upon motion of Councilman Thrower, seconded by Councilman Short, and unanimously carried, the subject ordinance was adopted as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 126..

ORDINANCE NO. 621-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING ON THE SOUTHERN PART OF HARRIS BOULEVARD NEAR THE INTERSECTION OF HARRIS BOULEVARD AND U. S. HIGHWAY 29.

Motion was made by Councilman Short, seconded by Councilman Tuttle, and unanimously carried, changing the zoning from R-12 to RE as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 127.

ORDINANCE NO. 622-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF HARRIS BOULEVARD AND INTERSTATE 85.

Councilman Tuttle moved adoption of the subject ordinance changing the zoning from R-12 to RE as recommended by the Planning Commission. The motion was seconded by Councilman Thrower, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 128,

ORDINANCE NO. 623-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY GENERALLY LOCATED AT THE PROPOSED INTERSECTION OF HARRIS BOULEVARD AND MALLARD CREEK ROAD LYING SOUTH OF PROPERTY OWNED BY JAMES DEARMAN AND INCLUDING A SMALL SECTION OF PROPERTY OWNED BY MRS. MARTHA DEARMON, SR.

Upon motion of Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, the subject ordinance was adopted changing the zoning from R-12 to R-12MF as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 17, at Page 129.

MAYOR BELK RETURNS TO CHAIR.

Mayor Belk returned to the Chair at this time and presided for the remainder of the Session.

TOM SYKES ADVISES HIS COMMITTEE HAS RETAINED LEGAL COUNSEL AGAINST COUNCIL'S SELECTION OF CIVIC CENTER SITE.

Mr. Tom Sykes stated he has appeared before Council on numerous occasions recently in an effort to give Council an opportunity to rectify their mistake relative to placing the civic center site on a location that is not acceptable to the taxpayers and voters of the City of Charlotte.

He stated he has outlined the many objections of the public to the East Trade Street location. It appears that his pleas have fallen on deaf ears; he has been completely ignored in his efforts to deliver to the voters what they

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voted for on December 12, 1969. He stated he would like to have the record show that this group, and this group alone, is responsible for not delivering to the voters what he, the Council and others promised them on the bond vote; that he feels he is partially responsible for having been a party by invitation of some of this group to misleading and misinforming the public and the voters of this city on this bond issue. If he has made a mistake and has misled anyone it is because he used the information and the facts that were given to him by members of this group or by someone in the employ of the City of Charlotte at that time. That he is amazed that not one member of this elected body, the Council or the Mayor, has seen fit to give the taxpayers a valid reason for this change. That he is most definitely unable to understand their refusal to take another look at what they have done. Tell the voters a mistake has been made and then take what action is necessary to correct the error in judgement. Most of them know, and each of them collectively and individually have read, heard and been informed as to his position on this matter. They are all guilty, both individually and collectively, of ignoring the fact that he has presented to them time and time again relative to the mistakes they have made in the choosing of this site, and the losses of millions of dollars of the taxpayers money because of their unyielding position on this matter; it is and should be so considered a disgrace for him, an individual citizen, to make the efforts that he has to force the elected officials of this city to keep those promises which were made to the voters on this issue.

He stated there have been numerous letters to the editors on the matter; there have been editorials on the matter, asking for answers to the many questions posed by Council's action. No answers have been forthcoming from the elected officials. Why? It indicates they do not intend to take any action to bring about a solution to this problem which this group has created.

Mr. Sykes stated he feels that ample time has been given to bring about a change of the civic center site that will provide the voters with the facilities that were promised on the December 12th bond vote. In view of the attitude of this group to refuse to meet the wishes of the voters and for them to continue to ignore the rising tide of public opinion against the Trade Street Site, he is present to inform the elected officials that his Committee has retained as counsel, Mr. Gene Kendall, who will represent their committee and those many citizens in Charlotte who feel that action must be taken to litigate this matter in the courts. That Mr. Kendall has been instructed to proceed immediately with deliberate speed to bring about the successful conclusion to this problem.

Mayor Belk replied everyone's objective has been to build the best civic center possible for the future of the City of Charlotte. This objective is still the No. 1 thought in their minds; they still want to do this.

Mr. Sykes stated sometimes we listen to unwise counsel in making a decision of this type. That he knows they must seek advice from others, however, as businessmen with pencils and paper, they could reach the conclusions that he has reached and others have reached.

Mayor Belk stated Mr. Sykes has spent a lot of time on this and he appreciates his interest.

COUNCIL REQUESTED TO RECONSIDER ENDORSEMENT OF SITE AT SHAMROCK DRIVE AT BRIAR CREEK FOR PUBLIC HOUSING.

Mr. Preston Eng, Secretary and Treasurer of the Northeast Property Owners Association, stated the Association is concerned about the selection of the tract of land located on Shamrock Drive at Briar Creek for the development of public housing.

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That on April 3, 1970, the site was announced by the Housing Authority of the City of Charlotte, N. C., and carried the endorsement of the City Council. At that time, they could have run to Council, the Housing Authority, the press, and to other governmental and political figures. This could have been accomplished with much impact and publicity for the recent primary elections were in full swing and we had a petition containing the support of over 2,000 voters and taxpayers.

But, as they are not professional engineers, lawyers, or developers, their members met and decided to seek the advice of qualified Counsel and experts before saying anything. With the help of Consulting Engineers Frank C. Cockinos and Associates, Inc., and Attorneys at Law, Reginald S. Hamel and Thomas R. Cannon, they researched and reviewed the suitability of this site for the proposed project. They have concluded that the site is economically and topographically unfeasible, and come to Council today to present several of their findings for consideration.

First, the watershed of six square miles of area drains directly through the 10 acre tract.

Second, concerning the site itself, they want to point out:

- (1) Four tributary creeks join Briar Creek within this site;
- (2) There are two storm drains passing through the area to supplement watershed handled by Briar Creek.
- (3) There are several storm drains from 15" to 36" draining onto the site from Glenville Avenue and Finchley Drive.
- (4) An 18" sewer outfall line runs through the site, with manholes extending as high as two feet above ground.
- (5) Over 85% of the site has been determined to be a flood control area by a United States Geological Survey and can be expected to be flooded in 4 to 6 feet of water. The city engineers are aware of these flood levels as evidenced by sewage manhole covers over five feet high in the park.

Mr. Eng stated they are assuming, and they hope, that the Housing Authority plans to fill in to an adequate level above the flood level in accordance with City and County ordinances. To fill in the ten acres an average of five feet (which would be only two feet above flood level) will require over 80,000 cubic yards of dirt. At a conservative \$2.00 per cubic yard, the cost of delivered fill dirt will be \$160,000. In addition, this dirt must be leveled, compacted and graded, and we feel an additional \$100,000 would not be an unreasonable estimate.

Concerning the problem of drainage, Briar Creek would have to be straightened, widened, and cleaned out so that run-off may flow easier. The storm drains dumping onto the area must be extended to the creek. He stated they have not developed definite cost estimates, however, another \$75,000 to \$100,000 certainly does not seem excessive.

As far as the four tributary creeks are concerned, they do not know what engineering expertise would be required to solve these problems, nor the cost, assuming they can adequately be drained.

Assuming that the land may be purchased for \$15,000 to \$40,000, so far you will have accumulated costs of \$350,000 to \$400,000. This amounts to from \$13,000 to \$15,000 per structure even before the first brick is laid.

What will be the after effects?

1. A dam will be created on the lower end of a natural basin which will cause upstream drainage to disperse around either side onto existing property owners.

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2. The site now serves as a watershed area for the surrounding areas, which is essential to the well being of the adjacent property owners.
3. Their engineers estimates that there will be a 50% increase in the runoff co-efficient of Briar Creek, which would have a tendency to increase the flood level in the park and to property owners downstream.

In solving the problem at the site, you would be creating problems upstream and downstream and adjacent area to the injury of existing property owners.

Mr. Eng stated on April 4, 1970, The Charlotte News quoted the Mayor as saying:

"The mayor added that the joint announcement yesterday begins a new approach to low income housing in Charlotte" characterized by:

"A conscientious concern for the quality of the environment in the neighborhood in which the new housing is located and ..."

"A commitment to the achievement of quality of a high level in site planning and architectural design..."

He stated based upon this statement and the facts involved, they do not feel that this site measures up to these qualities. That the result would be a marginal development at exhorbitant cost to the taxpayers.

They feel without this \$400,000 outlay (and probably much more) the Housing Authority is condemning the potential residents of the project to existence in a flooded and marshy area. Is this the new concept in public housing you spoke of? They think not!

Mr. Eng stated over 30% of the land within a one mile radius of this site is now zoned multi-family and the Housing Authority has selected the least suitable of all.

As concerned citizens and taxpayers, they urge Council to reconsider its endorsement of this site and to use its influence with the Housing Authority to choose a more suitable site.

Councilman Tuttle stated in view of what has been said he hopes we have not chosen a desperation site, and he asked Mr. Veeder, City Manager, to get with the Housing Authority and see what they say engineering-wise about this site and what these people have presented.

NEGOTIATED CONTRACT WITH BLYTHE BROTHERS COMPANY FOR EMERGENCY REPAIRS TO BRIAR CREEK SEWER OUTFALL, AUTHORIZED.

Councilman Withrow moved approval of a negotiated contract with Blythe Brothers Company in the amount of \$26,000 for emergency repairs to Briar Creek sewer outfall. The motion was seconded by Councilman Jordan, and carried unanimously.

RIGHT OF WAY AGREEMENT WITH NORTH CAROLINA STATE HIGHWAY COMMISSION FOR RELOCATION OF WATER MAINS IN BREVARD STREET, BETWEEN EAST 12TH AND EAST 11TH STREETS.

Motion was made by Councilman Tuttle, seconded by Councilman Short, and unanimously carried, approving the right of way agreement between the City and North Carolina State Highway Commission for the relocation of water mains in conflict with the Northwest Expressway as related to the construction of a 24-inch diameter water main in Brevard Street, between East 12th and East 11th Street.

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CLAIM OF ALBERT BRYAN, III, FOR AUTOMOBILE DAMAGE, DENIED.

Upon motion of Councilman Tuttle, seconded by Councilman Whittington, and unanimously carried, claim in the amount of \$525.00 for damages to automobile of Mr. Albert Bryan, III, was denied as recommended by the City Attorney.

RESOLUTION AUTHORIZING MAYOR JOHN M. BELK TO SUBMIT APPLICATION FOR RE-CERTIFICATION OF THE WORKABLE PROGRAM FOR COMMUNITY IMPROVEMENT FOR THE CITY OF CHARLOTTE, NORTH CAROLINA, ADOPTED.

Councilman Short moved adoption of the subject resolution, which was seconded by Councilman Tuttle, and carried unanimously.

The resolution is recorded in full in Resolutions Book 7, at Page 87.

ORDINANCE NO. 624 AMENDING CHAPTER 10A OF THE CODE OF THE CITY OF CHARLOTTE ENTITLED "HOUSING".

Councilman Tuttle moved adoption of the subject ordinance. The motion was seconded by Councilman Short, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 17, at Page 130.

CONTRACT WITH LEGAL AID SOCIETY OF MECKLENBURG COUNTY TO FURNISH ATTORNEYS TO WORK IN THE ALEXANDER STREET MODEL CITIES NEIGHBORHOOD CENTER.

Councilman Thrower moved approval of the subject contract in an amount not to exceed \$21,326.00 with the Legal Aid Society of Mecklenburg County to furnish two attorneys to work in the Alexander Street Model Cities Neighborhood Center to provide any necessary civil legal aid and assistance to all residents of the Model Neighborhood who meet the standards of indigency established by the Legal Aid Society and the 26th Judicial District Bar with the funds to come from the Model Cities Budget. The motion was seconded by Councilman Alexander, and carried unanimously.

ORDINANCE NO. 625-X AMENDING ORDINANCE NO. 255-X THE 1969-70 BUDGET ORDINANCE AUTHORIZING TRANSFER OF PORTION OF REDEVELOPMENT BOND FUNDS TO THE FIRST WARD URBAN RENEWAL CAPITAL PROJECT ACCOUNT.

Upon motion of Councilman Tuttle, seconded by Councilman Withrow, and unanimously carried, the subject ordinance was adopted transferring \$140,000 to be used for the design, construction and purchase of property for improvements carried out as part of the First Ward Urban Renewal Project.

The ordinance is recorded in full in Ordinance Book 17, at Page 131.

APPRAISAL CONTRACTS APPROVED.

Motion was made by Councilman Short, seconded by Councilman Thrower, and unanimously carried, approving the following appraisal contracts:

- (a) Contract with Henry E. Bryant for appraisal of one parcel of land at a fee of \$1,000 for the Airport Expansion Project.
- (b) Contract with Wallace D. Gibbs, Jr. for appraisal of one parcel of land at a fee of \$1,000 for Airport Expansion Project.
- (c) Contract with Leo H. Phelan, Jr. for appraisal of one parcel of land at a fee of \$150.00 for the Taggart Creek Outfall.

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PROPERTY TRANSACTIONS AUTHORIZED.

Upon motion of Councilman Thrower, seconded by Councilman Withrow, and unanimously carried, the following property transactions were approved:

- (a) Acquisition of 8' x 10' of easement on Bellamy Street at Willow Street off Steele Creek Road from T. R. Helms and wife, Telitha J., at \$1.00, for Willow Street Sanitary Sewer.
- (b) Acquisition of 10' x 100' of easement on Bellamy Street at Willow Street off Old Steele Creek Road from P. B. and E. J. Fisher, at \$1.00, for Willow Street Sanitary Sewer.
- (c) Acquisition of 10' x 100' of easement on Willow Street near Bellamy Street off Old Steele Creek Road from Harold McKenzie Bowman and wife, Eva Helena Bowman, at \$1.00, for Willow Street Sanitary Sewer.
- (d) Acquisition of 10' x 300' of easement on Bellamy Street at Willow Street off Old Steele Creek Road from P. B. and E. J. Fisher, at \$1.00, for Willow Street Sanitary Sewer.
- (e) Acquisition of 10' x 154.75' of easement on Bellamy Street at Willow Street off Old Steele Creek Road from P. B. and E. J. Fisher, at \$1.00, for Willow Street Sanitary Sewer.
- (f) Acquisition of 50' x 10.76' x 52.8' x 31.94' at 905 Mavis (Maple) Street from Creola Moore (widow), at \$300.00, for Northwest Expressway.

ENCROACHMENT AGREEMENTS, AUTHORIZED.

Motion was made by Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, authorizing the Mayor and City Clerk to execute encroachment agreements, as follows:

- (a) Agreement with State Highway Commission permitting the City to construct an 8-inch sanitary sewer line beginning in the northern right of way of Freedom Drive and running in a southerly direction across Freedom Drive for a distance of 55 feet for the Taggart Creek Sewer at Freedom Drive and Thriftwood Drive.
- (b) Agreement with State Highway Commission permitting the City to construct an 8-inch sanitary sewer line within the right of way of Mulberry Church Road beginning north of the intersection of Wilkinson Boulevard and Mulberry Church Road along the western right of way of Mulberry Church for sanitary sewer to serve Mulberry Church Road.

SPECIAL OFFICER PERMITS APPROVED.

Upon motion of Councilman Tuttle, seconded by Councilman Whittington, and unanimously carried, Special Officer Permits were approved for a period of one year as follows:

- (a) Issuance of permit to Mr. Cameron McRae, Jr. for use on the premises of Northwood Park and Eastbrook Woods Subdivision.
- (b) Renewal of permit to Mr. Frank W. Haas for use on the premises of City Cemeteries.

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TRANSFER OF CEMETERY LOTS.

Motion was made by Councilman Short, seconded by Councilman Tuttle, and unanimously carried, authorizing the Mayor and City Clerk to execute deeds for the transfer of cemetery lots, as follows:

- (a) Deed with Mr. C. G. Armstrong and wife, Jan L. Armstrong, for Lot No. 323, Section 2, Evergreen Cemetery, at \$640.00.
- (b) Deed with Mrs. Nellie F. Cooper for Grave Nos. 11 and 12, in Lot No. 21, Section 2, Evergreen Cemetery, at \$160.00.
- (c) Deed with Mr. Carl N. Crenshaw for Lot No. 290, Section 6, Evergreen Cemetery, at \$320.00.
- (d) Deed with Mr. John M. Neilson for N. E. 1/4 of Lot No. 131, Section X, Elmwood Cemetery, transferred from A. J. Neilson, at \$3.00 for transfer deed.
- (e) Deed with Mr. Joseph A. Neilson for N. W. 1/4 of Lot No. 131, Section X, Elmwood Cemetery, transferred from A. J. Neilson, at \$3.00 for transfer deed.

CONTRACT AWARDED SANDERS BROTHERS, INC. FOR SANITARY SEWER CONSTRUCTION TO SERVE COVENTRY WOODS NO. 4.

Councilman Withrow moved award of contract to the low bidder, Sanders Brothers, Inc., in the amount of \$20,537.00 on a unit price basis for sanitary sewer construction to serve Coventry Woods No. 4. The motion was seconded by Councilman Jordan, and carried unanimously.

The following bids were received:

Sanders Brothers, Inc.	\$20,537.00
Joe R. Abernethy Const. Co.	20,852.50
Thomas Structure Company	25,620.50

DROP BOX TO PAY PARKING TICKETS REQUESTED PLACED IN DOWNTOWN AREA.

Councilman Thrower stated he has noticed that the County has a drop box to pay a parking ticket. That he would like to see if there is not something feasible for the City to do in the Downtown area where the parking meters are located. He requested the City Manager to have this investigated and report back to Council.

Mr. Veeder, City Manager, advised this has been suggested before and he does not recall the reasons given for it not being feasible.

CITY MANAGER REQUESTED TO HAVE CAR PATROL UNIVERSITY PARK AREA EARLY IN THE MORNINGS AND LATE AT NIGHT WHERE THE STREETS ARE BEING USED FOR SPEEDING.

Councilman Alexander stated a dangerous situation has developed in the University Park area. That the automobile speedsters take a section of University Park early in the morning and late at night for a race track. That they begin at Beatties Ford Road, come through Keller Drive and Senior Drive, turn left on Senior Drive and Southwest Boulevard and hit down Southwest Boulevard and come back up around LaSalle Street into the Beatties Ford Road. There have been accidents there recently; cars run up on cars that are parked along the curbs; cars run out of control and run through people's yards.

He requested the City Manager to have the Police Department check this out and perhaps have a car to patrol it until it is broken up.

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CITY MANAGER REQUESTED TO HAVE BEATTIES FORD ROAD AND I-85, AND NEWLAND ROAD AND BEATTIES FORD ROAD CHECKED TO SEE IF THE CONDITION CANNOT BE IMPROVED.

Councilman Alexander stated that traffic is so intense on Beatties Ford Road that you have a serious traffic condition where you come off I-85 into Beatties Ford Road from the west side of Beatties Ford Road. There is also a problem with traffic coming out of Newland Road into the Beatties Ford Road and I-85. This needs to be studied. That accidents are happening there quite frequently. That early in the mornings and in the evenings you take your life in your hand to try to go through there.

He stated he does not know whether this is a city or a state problem, but he requested the City Manager to have someone check this condition.

PUBLIC HEARING ON PROPOSED CHANGES IN SANITATION ORDINANCE SET FOR JUNE 1, AT 7:30 P.M.

Councilman Whittington moved that a public hearing be held, in a place to be selected by the City Manager and his staff, on June 1, at 7:30 o'clock p.m., to hear the proposed changes in the sanitation department ordinance, and that it be put back on the Council docket for June 8, 1970. The motion was seconded by Councilman Thrower, and carried unanimously.

REDEVELOPMENT COMMISSION REQUESTED TO PROCEED WITH REDEVELOPMENT AND SALE OF BROOKLYN SECTION NO. 3 FOR COMMERCIAL USE, AND TO WORK WITH PARK AND RECREATION COMMISSION IN STUDY OF BROOKLYN SECTION NO. 4 FOR REUSE COMBINING A PUBLICLY OWNED PARK FACILITY WITH COMPATIBLE COMMERCIAL DEVELOPMENT.

Councilman Whittington presented the following statement:

"On April 20, 1970, this Council received the report of the Blue Heaven Committee concerning the proposed reuse of the land in Sections #3 and #4 of the Brooklyn urban renewal project. The committee recommended that Section #3, the post office site, be developed by private enterprise along the lines of "Concept: Serendipity" and that Section #4, Blue Heaven, be developed independently or as a complement to "Concept: Serendipity", with a mixture of commercial, residential and park areas.

The committee requested, in addition, that Council (a) appropriate approximately \$15,000 in City funds for a feasibility study of the committee's proposal, (b) request the Redevelopment Commission to withhold the sale of Section #3 pending the results of the feasibility study, and (c) request the Redevelopment Commission staff to prepare the changes in the redevelopment plan necessary for the development of a privately owned park and recreation facility on the Section #3 site.

Council appreciates the sincere interest and effort put forth by the Blue Heaven Committee in its study and recommendations. Since that time, members of City Council have given serious consideration to the alternatives before the community concerning the redevelopment of this land. We have been mindful of Charlotte's needs. We have weighed such needs as:

- (1) our community's need for additional park and recreational facilities,
- (2) the need for revenue producing urban renewal property,
- (3) the need for a development of this location which is compatible with the adjacent Governmental Center, and
- (4) the need to move forward to the completion of the total Brooklyn redevelopment program.

We have listened to our individual consciences and to the good counsel of many interested citizens. We have concluded that the needs of the total

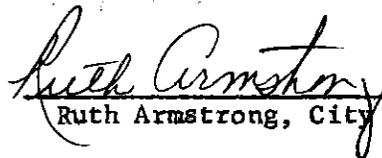
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community can best be met by requesting the Redevelopment Commission to proceed with the redevelopment and sale of Brooklyn Section #3 for commercial use as recommended in the original land reuse plan and by further requesting that the Redevelopment Commission work with the Park and Recreation Commission in the immediate study of Brooklyn Section #4 property for reuse combining a publicly owned park facility with compatible commercial development."

Motion was made by Councilman Whittington, seconded by Councilman Short, and unanimously carried, approving the recommendations as presented.

ADJOURNMENT.

Upon motion of Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, the meeting was adjourned.


Ruth Armstrong, City Clerk