

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

CITY COUNCIL ZONING AGENDA ***Monday, November 17, 2008***

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

6:00PM – Zoning Decisions
Meeting Chamber

DINNER MEETING

- ***Review of Agenda – Tammie Keplinger / Tom Drake***

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www.rezoning.org

REZONING ACRONYMS

<u>Zoning Districts</u>	<u>Overlay Districts</u>
<ul style="list-style-type: none"> ● B-1 – neighborhood business district ● B-2 – general business district ● B-1SCD – business shopping center district ● BD – distributive business district ● BP – business park district ● CC – commercial center district ● I-1 – light industrial district ● I-2 – general industrial district ● INST – institutional district ● MUDD – mixed use development district ● MX-1 – mixed use district ● MX-2 – mixed use district ● MX-3 – mixed use district ● NS – neighborhood services district ● O-1 – office district ● O-2 – office district ● O-3 – office district ● R-3 – single-family residential – up to 3 dwelling units per acre (dua) ● R-4 – single-family residential – up to 4 dua ● R-5 – single-family residential – up to 5 dua ● R-6 – single-family residential – up to 6 dua ● R-8 – single-family residential – up to 8 dua ● R-8MF – multi-family residential – up to 8 dua ● R-12MF – multi-family residential – up to 12 dua ● R-17MF – multi-family residential – up to 17 dua ● R-22MF – multi-family residential – up to 22 dua ● R-43MF – multi-family residential – up to 43 dua ● R-MH – residential manufactured housing ● RE-1 – research district ● RE-2 – research district ● RE-3 – research district ● TOD – transit oriented development ● TOD-E – transit oriented development – employment ● TOD-EO – transit oriented development – employment – optional ● TOD-M – transit oriented development – mixed use ● TOD-MO – transit oriented development – mixed use – optional ● TOD-R – transit oriented development – residential ● TOD-RO – transit oriented development – residential – optional ● U-I – urban industrial district ● UMUD – uptown mixed use district ● UMUD-O – uptown mixed use district - optional ● UR-1 – urban residential ● UR-2 – urban residential ● UR-3 – urban residential ● UR-C – urban residential - commercial 	<ul style="list-style-type: none"> ● CR/LWW – Catawba River / Lake Wylie watershed ● CR/LWWCA – Catawba River / Lake Wylie watershed – critical area ● CR/LWWPA – Catawba River / Lake Wylie watershed – protected area ● HD-O – historic district overlay ● HW – hazardous waste overlay ● LNW – Lake Norman watershed ● LNWCA – Lake Norman watershed – critical area ● LNWPA – Lake Norman watershed – protected area ● LLWW – Lower Lake Wylie watershed ● LLWWCA – Lower Lake Wylie watershed – critical area ● LLWWPA – Lower Lake Wylie watershed – protected area ● MILW – Mountain Island Lake watershed ● MILWCA – Mountain Island Lake watershed – critical area ● MILWPA – Mountain Island Lake watershed – protected area ● MH- – manufactured home overlay ● PED – pedestrian overlay district ● PED-O – pedestrian overlay district – optional ● TS – transit supportive overlay district <p style="text-align: center; margin: 10px 0;"><u>Miscellaneous Acronyms</u></p> <ul style="list-style-type: none"> ● CD – conditional ● SPA – site plan amendment

DECISIONS

	<p>01. Petition No. 2008-070 (decision) by Noda @ 27th Street, LLC for a change in zoning of approximately 3.63 acres located in the block bounded by North Davidson Street, East 26th Street, East 27th Street and Yadkin Avenue from I-2 to MUDD-O.</p> <p>The Zoning Committee found this petition to be inconsistent with the <i>Central District Plan</i> but reasonable and in the public interest, by a 4 to 1 vote. The Committee voted 4 to 1 to recommend APPROVAL of this petition with the following modification:</p> <ul style="list-style-type: none"> • The following note will be added to the site plan: "Any dumpsters located within the site that are visible from a public street or from an external adjoining property will be screened from view by a solid enclosure with gates. Trash compactor / dumpster/ units for the residential buildings shall be located in trash rooms as conceptually shown on this plan. Roll out bins will be pulled to the adjacent streets for pick up." <p>Staff agrees with the recommendation of the majority of the Zoning Committee.</p> <p>Attachment 01</p>
	<p>02. Petition No. 2008-075 (decision) by Fairfield Development, L.P. for a change in zoning of approximately 6.40 acres located on the north side of East Woodlawn Road between Park Road and Halstead Drive from R-4, R-43MF and R-6MFH(CD) to UR-3(CD) and R-4.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Central District Plan</i> and to be reasonable and in the public interest. The Committee voted 5-1 to recommend DENIAL of this petition. The following modifications have been made to the petition:</p> <ul style="list-style-type: none"> • The buffer to the west has been increased to 31 feet in width. • A note has been added that provides flexibility in the location of a property line abutting an existing single family home. The flexibility is to allow for a garage addition to the home while meeting side yard requirements. <p>Staff agrees with the recommendation of the majority of the Zoning Committee.</p> <p>Attachment 02</p>
	<p>03. Petition No. 2008-076 (decision) by Charles Hodges for a change in zoning of approximately 2.78 acres located at the intersection of South Tryon Street and Ayrslley</p>

Town Boulevard from MUDD-O to MUDD-O SPA.

The Zoning Committee unanimously found this petition to be consistent with the *Westside Strategic Plan* and to be reasonable and in the public interest. The Committee voted 4-2 to recommend **APPROVAL** of this petition with the following modifications:

- The following signs will be permitted as noted:

	2008-076 - Proposed
Interstate 485	1 freestanding sign 30' max height 150 max square feet 100 square foot max LED component proposed
S. Tryon Street	1 freestanding sign - no change (approved in 2007 and now existing) 1 freestanding sign (previously approved, permitted and constructed) 30' max height 150 max square feet 100 square foot max LED component proposed 1 wall sign (on right side of Ayrnsley Boulevard) 100' maximum LED component

- Signs will comply with the zoning ordinance definitions for identification, business, changeable copy, and electronic changeable face signs;
- Signs will not advertise products for sale;
- Signs will comply with the standards established for outdoor advertising signs with the exception of the distance requirements. These include: limitation on the types of signs, message duration, illumination, tree-cutting, and system malfunction provisions.
- A note will be added to the site plan to indicate that staff will review and approve the final sign design, structure, material, etc. prior to the issuance of sign permits; and
- The following note will be added to the site plan:

The "Town of Ayrnsley" is a unique development consisting of a "town center" that serves as a gateway to the community. It includes residential, office and retail components that are easily accessible and pedestrian friendly. By its very nature, the compact design limits the visibility and the advertising opportunities for small tenants. For Ayrnsley, this is further constrained by the location and the relationship of the site to the surrounding road system.

The conditions placed on the signage include compliance with key definitions in the zoning ordinance and portions of the restrictions for LED outdoor advertising signs. In addition, the limitation that no products will be advertised for sale and the final staff review will allow the appropriate level of advertising for the "Town of Ayrnsley".

The type of development and the additional conditions as noted on the site plan were **paramount to the Committee's support of this request.** To this end, staff has been asked by the Committee to develop guidelines related to the appropriateness of using LED signage for their consideration.

Staff agrees with the recommendation of the majority of the Zoning Committee.

Attachment 03

04. **Petition No. 2008-082 (decision) by First Industrial B&L, LLC** for a change in zoning of approximately 15.99 acres located on the east side of Matheson Avenue between North

	<p>Tryon Street and the Southern Railway railroad from I-2 to UR-3(CD).</p> <p>The Zoning Committee unanimously found this petition to be inconsistent with the <i>Central District Plan</i> and not reasonable and in the public interest. The Committee voted unanimously to recommend DENIAL of this petition. The following modifications have been made to the petition:</p> <ul style="list-style-type: none"> • The petitioner should amend the site plan to reflect only one (1) development option. The site plan has been amended to one development option with a conversion provision. The plan proposes 239 attached townhomes or flats and 44,000 square feet of office / retail space. A reduction of 1,000 square feet of office/retail will allow the development of 2 additional residential units provided that the maximum number of residential units does not exceed 327. • The conflict in the amount of retail square footage has been corrected by limiting building 8 to 3,000 square feet of office/retail and eliminating office/retail space in building 7. • Building elevations have been included as a part of the petition. However the elevations show a four (4)-story building and the proposed buildings are five (5) stories. The note states that railroad elevations and buildings without office/retail and the upper floors will be "similar" to the provided elevation using "brick and other materials". • A note will be added to the site plan that two (2) Permitted Sources of Air Pollution are located within 1000 feet of the proposed rezoning, will be disclosed to all potential buyers. • A Solid Waste Management Plan will be submitted to LUESA. <p>Staff recommends approval of this petition upon resolution of the outstanding site plan issues.</p> <p>Attachment 04</p>
	<p>05. Petition No. 2008-116 (decision) by William Turner for a change in zoning of approximately 0.36 acres located at the intersection of Greenwood Cliff and Harding Place from O-2 to MUDD (CD).</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Central District Plan</i> and to be reasonable and in the public interest. The Committee voted 6-1 to recommend DENIAL of this petition.</p> <p>Staff agrees with the recommendation of the majority of the Zoning Committee, however, if the unresolved outstanding issues are resolved, the petition is appropriate for approval.</p> <p>Attachment 05</p>
	<p>06. Petition No. 2008-124 (decision) by The Rainier Group, LLC for a change in zoning of approximately 0.40 acres located on the south side of East Boulevard between South Boulevard and Cleveland Avenue from B-1(HD-O) to MUDD-O(HD-O).</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>South End</i></p>

	<p><i>Transit Station Area Plan</i> and to be reasonable and in the public interest. The Committee voted unanimously to recommend APPROVAL of this petition, based upon the following modifications:</p> <ul style="list-style-type: none"> • Petitioner submitted a new calculation of building square footage that no longer reaches the threshold for a required off-street loading space. • Petitioner has agreed to LUESA's request to submit a solid waste management plan. • A note has been added committing to have a certified arborist prepare a tree preservation plan for the tree identified to be saved. <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 06</p>
Deferral (one-month)	<p>07. Petition No. 2008-130 (decision) by Issa Rafidi for a change in zoning of approximately 0.20 acres located on the northwest corner of North Davidson Street and Charles Avenue from R-5 to MUDD-O.</p> <p>The Zoning Committee voted unanimously to recommend a one-month DEFERRAL of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 07</p>
Deferral (one-month)	<p>08. Petition No. 2008-131 (decision) by Crescent Resources, LLC for the adoption of a text amendment to the City of Charlotte Zoning Ordinance to modify the regulation for drive-thrus for small restaurants under specific, limited circumstances.</p> <p>The Zoning Committee voted unanimously to recommend a one-month DEFERRAL of this text amendment.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 08</p>
	<p>09. Petition No. 2008-133 (decision) by Charlotte-Mecklenburg Planning Commission for a change in zoning of approximately 0.46 acres located on the southeast corner of West Kingston Avenue and Hawkins Street from B-1 to TOD-M.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Southend Transit Station Area Plan</i> and to be reasonable and in the public interest. The Committee voted unanimously to recommend APPROVAL of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 09</p>
Protests	<p>10. Petition No. 2008-134 (decision) by The Boulevard Company for a change in zoning of approximately 0.89 acres located on the southeast corner of Selwyn Avenue and Queens Road West from R-22MF to UR-3(CD) with Five Year Vested Rights.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Central</i></p>

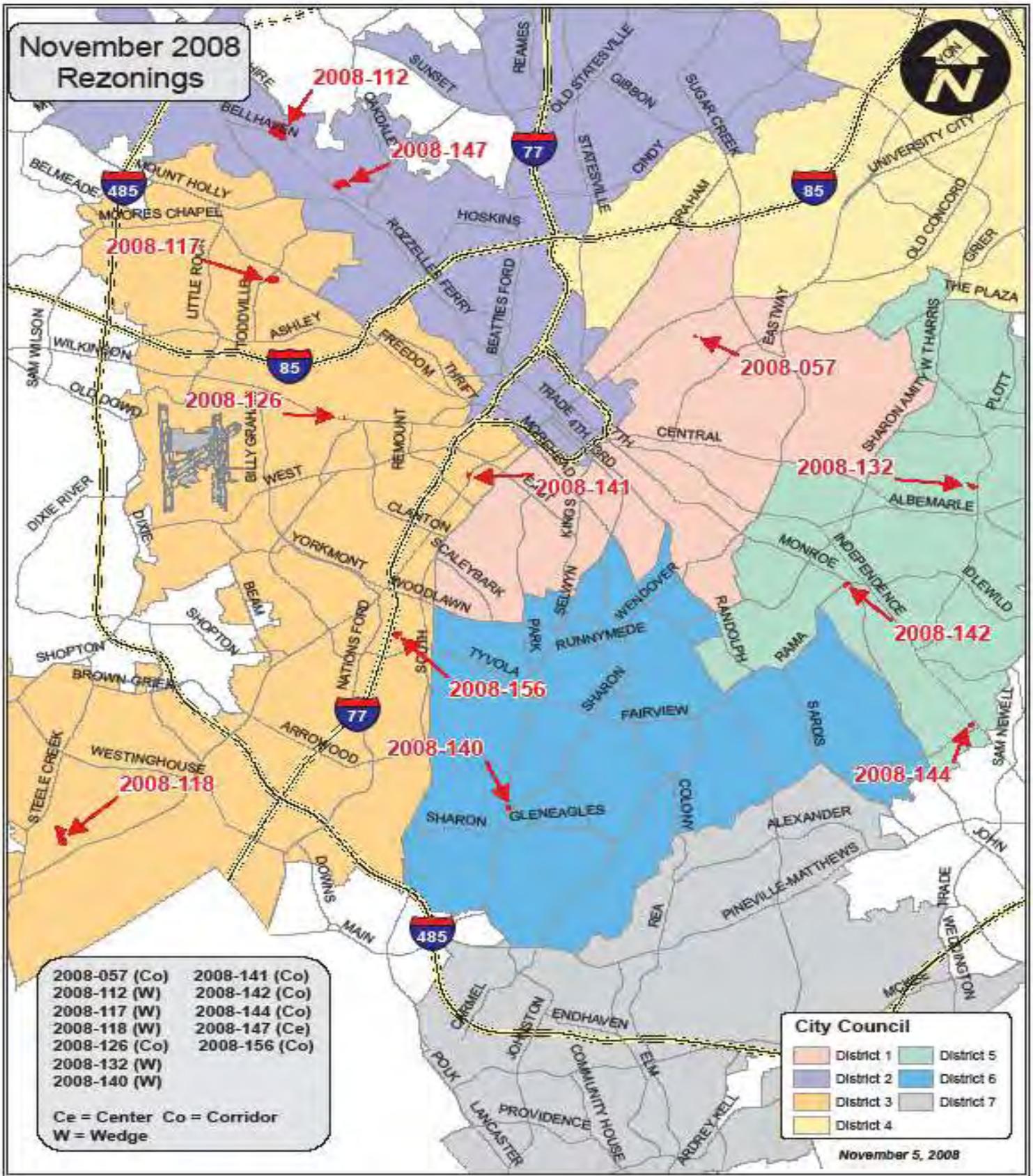
(sufficient)	<p><i>District Plan and GDP</i> but not reasonable and not in the public interest. The Committee voted 4-2 to recommend DENIAL of this petition.</p> <p>Staff agrees with the recommendation of the minority of the Zoning Committee.</p> <p>Attachment 10</p>
	<p>11. Petition No. 2008-136 (decision) by Urban Active Fitness Clubs for a change in zoning of approximately 3.35 acres located on the west side of Johnston Road between North Community House Road and Toringdon Way from CC to CC SPA.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the South District Plan and to be reasonable and in the public interest. The Committee voted unanimously to recommend APPROVAL of this petition.</p> <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 11</p>
	<p>12. Petition No. 2008-137 (decision) by Planet 5, LLC for a change in zoning of approximately 1.27 acres located on the south side of Kenilworth Avenue between East Morehead Street and Harding Place from O-2 to MUDD-O.</p> <p>The Zoning Committee unanimously found this petition to be consistent with the <i>Central District Plan</i> and to be reasonable and in the public interest. The Committee voted unanimously to recommend APPROVAL of this petition with the following modifications:</p> <ul style="list-style-type: none"> • The site plan includes a note that one (1) residential unit may be constructed for every 1,000 square foot reduction in the total allowed non-residential square footage up to a maximum of 155 units. • The revised site plan shows a minor amount of articulation by recessing a portion of the wall adjacent to office property. • A note has been added that indicates childcare facilities will comply with Section 12.502. • All street right-of-way are dimensioned on the site plan. • The following note has been added to the end of Section F of the Development Standards: "Such urban open space shall include portable planters and seating areas to create an attractive open space area." <p>Staff agrees with the recommendation of the Zoning Committee.</p> <p>Attachment 12</p>
	<p>13. Petition No. 2008-139 (decision) by Landmark Development, LLC for a change in zoning of approximately 7.11 acres located on the north side of Ballantyne Commons Parkway between Rea Road and Williams Pond Lane from R-12MF(CD) to B-D(CD) and O-1(CD).</p> <p>The Zoning Committee unanimously found this petition to be inconsistent with the <i>South</i></p>

District Plan but reasonable and in the public interest. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

- The petitioner has incorporated options shown on plan "B" into plan "A" and eliminated plan "B"
- The petitioner has submitted building elevations for the four and three story buildings.
- The 46.5 foot Class B buffer adjacent to the Brittany Oaks subdivision will be undisturbed except to the extent necessary to install a fence with brick pillars and to install supplemental landscaping if required.
- The fence installed within that portion of the 46.5 foot Class B buffer located adjacent to the Brittany Oaks subdivision, adjacent to the apartment complex from the Brittany Oaks subdivision to the creek and adjacent to Tax Parcel No. 225-045-08 from the Brittany Oaks subdivision to the creek shall have brick pillars spaced a minimum of 12 feet apart. This portion of the fence shall have a minimum height of eight (8) feet. A detail of this portion of the fence has been added to the plan. The fence located within the other portions of the 46.5 foot Class B buffer will not be required to have brick pillars and may have a minimum height of six (6) feet.
- As required by the Ordinance, the fence will be located within the interior half of the 46.5 foot Class B buffer, but the petitioner will meet with the Brittany Oaks residents prior to determining the precise location of the fence within that portion of the buffer located immediately adjacent to the Brittany Oaks subdivision.
- The fence will be installed prior to the issuance of the first certificate of occupancy for the site.
- The adult day care center will not operate past seven (7) p.m. daily.
- Medical offices may not be located within the site.
- In addition to a two-story height limit, the maximum height of buildings G and H (the two buildings closest to the Brittany Oaks subdivision) shall be 35 feet from the first floor slab.
- The total maximum area of wall signs on Building A (the climate controlled self storage/office building) shall be 100 square feet.
- The petitioner has added a note indicating future cross access will be provided to the property to the east if it develops with a compatible use in the future.

Staff agrees with the recommendation of the Zoning Committee.

Attachment 13



HEARINGS

Deferral (one-month)	<p>14. Petition No. 2008-057 (hearing) by Michelle Strause for a change in zoning of approximately 0.30 acres located on the south side of East 36th Street between North Davidson Street and the Norfolk and Southern railroad from B-1 to NS.</p> <p>Petitioner is requesting a one-month deferral of this petition to December.</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 14</p>
Deferral (one-month)	<p>15. Petition No. 2008-112 (hearing) by Westlake Holdings, LLC for a change in zoning of approximately 24.81 acres located on the southwest corner of Brookshire Boulevard and Old Plank Road from R-3(LWPA) and B-1SCD(LWPA) to B-1(CD)(LWPA).</p> <p>Petitioner is requesting a one-month deferral of this petition to December.</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 15</p>
	<p>16. Petition No. 2008-117 (hearing) by Medical Facilities of North Carolina, Inc. for a change in zoning of approximately 9.05 acres located on the east side of Toddville Road between Paw Creek Road and Freedom Drive from R-3(LLWPA), R-9MF(CD)(LLWPA) and R-17MF(LLWPA) to INST(CD)(LLWPA).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 16</p>
Deferral (one-month) Protest (sufficient)	<p>17. Petition No. 2008-118 (hearing) by Neighboring Concepts for a change in zoning of approximately 19.52 acres located on the south side of Erwin Road between Moss Road and Ivey Creek Drive from R-3 to INST(CD).</p> <p>Petitioner is requesting a one-month deferral of this petition to December.</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 17</p>
	<p>18. Petition No. 2008-126 (hearing) by Frederick Watson for a change in zoning of approximately 0.17 acres located on the north side of Wilkinson Boulevard between Holton Avenue and Crispin Avenue from B-2 to UR-C(CD).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 18</p>
	<p>19. Petition No. 2008-132 (hearing) by VSL Construction, Inc. for a change in zoning of approximately 4.50 acres located on the west side of East W. T. Harris Boulevard between Wallace Avenue and Delta Crossing Lane from R-12MF(CD) to R-12MF(CD)SPA.</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 19</p>
	<p>20. Petition No. 2008-140 (hearing) by David Thompson for a change in zoning of</p>

<p>Protest (sufficient)</p>	<p>approximately 1.00 acres located on the east side of Park Road between Sharon Road and Wolfe Ridge Road from R-3 to UR-3(CD).</p> <p>Staff cannot support this petition as currently proposed.</p> <p>Attachment 20</p>
	<p>21. Petition No. 2008-142 (hearing) by Simone and David Locke for a change in zoning of approximately 1.76 acres located on the southwest corner of Monroe Road and Rama Road from O-1(CD) to R-3.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 21</p>
	<p>22. Petition No. 2008-144 (hearing) by HK Patel for a change in zoning of approximately 2.60 acres located northwest of the intersection of East Independence Boulevard and Sardis Road North from CC to CC SPA.</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 22</p>
<p>Deferral (one-month)</p>	<p>23. Petition No. 2008-147 (hearing) by Kathy and Sonya Garmon for a change in zoning of approximately 12.17 acres located on the north side of Brookshire Boulevard between Oakdale and Caldwell Williams Road from I-1 to I-2(CD).</p> <p>Staff recommends a one-month deferral of this petition to allow petitioner time to submit a revised site plan.</p> <p>Attachment 23</p>
	<p>24. Petition No. 2008-156 (hearing) by Metrolina Regional Scholars Academy for a change in zoning of approximately 4.13 acres located on the north side of Seventy Seven Center Drive from I-2 to O-2.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 24</p>
	<p>25. Petition No. 2008-141 (hearing) by the Charlotte-Mecklenburg Planning Commission for a change in zoning of approximately 2.17 acres located on the southwest corner of South Tryon Street and West Tremont Avenue from I-1 to TOD-M.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 25</p>