

The City Council of the City of Charlotte, North Carolina convened for a Zoning Meeting on Monday, October 18, 2021, at 3:40 p.m. in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Vi Lyles presiding. Councilmembers present were Ed Driggs, Larken Egleston, Julie Eiselt, Malcolm Graham, Renee Johnson, Matt Newton, Gregg Phipps, and Braxton Winston II.

AUN: Councilmembers Dimple Ajmera, Tariq Bokhari, and Victoria Watlington.

**Mayor Lyles** said welcome to the October 18th Charlotte City Council Zoning meeting. Tonight's meeting is being held consistent with the virtual meeting laws that are in the electronic meeting statute and the requirements for notice access and minutes are being met electronically. You're all invited to watch this meeting on the Government Channel, the City's Facebook page, or the City's YouTube page.

**Councilmember Ajmera arrived at 3:41 p.m.**

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**INVOCATION AND PLEDGE**

Councilmember Ajmera gave the Invocation and the Pledge of Allegiance to the Flag was led by Councilmember Egleston.

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**Mayor Lyles** said I wanted to go through the schedule. We have got a very organized meeting today. Today we are starting a little bit late. Our intent was to start at 3:30 p.m. with the zoning decisions that have been recommended. Then I will go through that process. We will stop at 4:30 p.m. and have a break. Then at 5 p.m., we will begin our zoning hearings or decisions depending on how far we've gotten. At 6:00 p.m. we will have a public hearing on the Council's options for redistricting as a result of the change in the census and our population. After that hearing, we will return to the zoning meeting and we will work until we have a process until about 10 o'clock. The Council has agreed to go as far as 10:30 p.m. today just because of the number of items we have on the agenda. At 10:00 p.m. we will do check-in and go for 30 minutes following that.

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**EXPLANATION OF THE ZONING MEETING PROCESS**

Mayor Lyles explained the Zoning Meeting rules and procedures.

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**INTRODUCTION OF ZONING COMMITTEE**

**Keba Samuel, Chair of the Zoning Committee/Chair of the Planning Commission** introduced members of the Zoning Committee. They will meet on Tuesday, November 2nd at 5:30 p.m. to make recommendations on the public hearings tonight. The public is invited, but it is not a continuation of the public hearing. For questions or to contact the Zoning Committee, information can be found at [charlotteplanning.org](http://charlotteplanning.org).

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### **DEFERRALS/ WITHDRAWALS**

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to defer: a decision on Item No. 4, Petition No. 2019-179 by Maamoun Rajeh - Parkmimo, LLC to November 15, 2021; withdrawal Item No. 5, Petition 2021-022 by OMS Dilworth, LLC; a decision on Item No. 9, Petition No. 2021-062 by Childress Klein Properties and Dominion Realty Partners to November 15, 2021; a Decision on Item No. 21 Petition No. 2021-138 by The City of Charlotte to November 15, 2021; a hearing on Item No. 23, Petition No. 2021-014 by Whitestone Holdings, Inc. to November 15, 2021; a hearing on Item No. 24, Petition No. 2021-019 by Fifth Third Bank to November 15, 2021; and, a hearing on Item No. 25, Petition No. 2021-092 by The Charlotte-Mecklenburg Hospital Authority to November 15, 2021.

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### **DECISIONS**

**ITEM NO. 6: ORDINANCE NO. 159-Z, PETITION NO. 2020-144 BY HOPPER COMMUNITIES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.285 ACRES LOCATED ALONG E. 16TH STREET AND LOUISE AVENUE IN THE BELMONT NEIGHBORHOOD FROM I-1, R-5, AND R-17MF (LIGHT INDUSTRIAL, RESIDENTIAL, MULTI-FAMILY RESIDENTIAL) TO UR-2 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Ham) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Belmont Area Plan (2003) with respect to proposed land use, based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends single-family uses up to five dwelling units per acre (DUA). However, we this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the request for urban residential zoning and the associated density at this site matches a nearby request adjacent to St. Paul's Baptist Church (2010-009 – 17 DUA). The requested district's density is similar to an immediately adjacent multi-family project at Pamlico Street (R-17 MF). The petition's commitment to enhanced architectural

features for this project assists in achieving the Plan's urban design goal of "improving the physical and visual appearance of the Belmont area." The petition's commitment to sidewalk and planting strip improvements along with the site's frontage aid in achieving the Plan's streetscape improvement goals on 16th Street. The petition is in alignment with the plan's Land Use and Development Goals and Objectives in that it attempts to preserve Belmont's single-family character while contributing to a mixed-use area plan that will enhance the quality of life. The approval of this petition will revise the adopted future land use as specified by the Belmont Area Plan from single-family up to five DUA to residential uses up to 22 DUA for the site.

The petitioner made the following changes to the petition after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review.

1. A conditional note was added to state that a certificate of occupancy for the building containing the 2 affordable dwelling units is to be issued prior to the issuance of a certificate of occupancy for the 19th single-family detached dwelling unit constructed on the site.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously and carried unanimously not to send this petition back to the Zoning Committee.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Belmont Area Plan (2003) with respect to proposed land use, based on the information from the final staff analysis and the public hearing, and because the plan recommends single family uses up to five dwelling units per acre (DUA). However, we this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because the request for urban residential zoning and the associated density at this site matches a nearby request adjacent to St. Paul's Baptist Church (2010-009 – 17 DUA). The requested district's density is similar to an immediately adjacent multi-family project at Pamlico Street (R-17 MF). The petition's commitment to enhanced architectural features for this project assists in achieving the Plan's urban design goal of "improving the physical and visual appearance of the Belmont area." The petition's commitment to sidewalk and planting strip improvements along the site's frontage aid in achieving the Plan's streetscape improvement goals on 16th Street. The petition is in alignment with the plan's Land Use and Development Goals and Objectives in that it attempts to preserve Belmont's single-family character while contributing to a mixed-use area plan that will enhance the quality of life. The approval of this petition will revise the adopted future land use as specified by the Belmont Area Plan from single family up to five DUA to residential uses up to 22 DUA for the site as modified.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 412-413.

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**ITEM NO. 7: ORDINANCE NO. 160-Z, PETITION NO. 2021-044 BY TRIBEK PROPERTIES AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.07 ACRES BOUND BY THE EAST SIDE OF SOUTH KINGS DRIVE, NORTH SIDE OF EAST 3<sup>RD</sup> STREET, AND SOUTH SIDE OF 3RD-4TH CONNECTOR STREET FROM B-2 (GENERAL BUSINESS), MUDD (CD) (MIXED-USE DEVELOPMENT, CONDITIONAL) TO MUDD-O (MIXED-USE DEVELOPMENT, OPTIONAL) WITH 5-YEAR VESTED RIGHTS.**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Rhodes) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Midtown Morehead Cherry Area Plan, based on the information from the post-hearing staff analysis and the public hearing and because the plan recommends Residential/Office/Retail land uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the proposed mixed-use plan supports the adopted plan's vision to become a pedestrian-oriented gathering place where people live, work, play, and shop. The adopted plan states that as redevelopment occurs, this area should move toward intense mixed-use pedestrian-friendly

development, with buildings along the street edge. The midtown area is shifting towards developing new buildings with greater height through other recently approved rezonings in the area. The rezoning plan enhances the pedestrian environment by providing a pedestrian hybrid beacon on E 3rd street between Charlottetown Ave and South Kings Drive along with a 16' wide pedestrian amenity zone along Kings Drive. These improvements help to promote walkable development. The rezoning plan also commits to a large open space area with pedestrian connections from the sidewalk on E. 3rd Street to the sidewalk along the site's frontage on the third-fourth connector street.

The petitioner made the following changes to the petition after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review.

1. A conditional note that adds leading Pedestrian Interval+, consisting of blank out signs and additional signal head for the northbound Charlottetowne approach at East Third Street and Charlottetowne.
2. A conditional note that replaces the 5-section "doghouse" left turn signal for northbound South Kings Drive at East Fourth Street with a left-turn flashing yellow arrow signal and installs accessible pedestrian signal improvements and PROWAG ramp improvements for all approaches at East Fourth Street and South Kings Drive.
3. A conditional note that subjects to the approval of Duke Energy and any other applicable utility providers and C-DOT and any other applicable governmental agencies, the Petitioner shall upgrade the existing street lighting to LED bulbs on both sides of East Third Street, East Fourth Street, and Seventh Street between I-277 and Charlottetowne Avenue (70 total streetlights).
4. A conditional note that states that the petitioner shall enter into a signal agreement with C-DOT during the permitting process. Pursuant to the signal agreement, Petitioner may pay the cost of any such signal modification or upgrade to C-DOT and C-DOT shall implement the signal modifications or upgrades.
5. Revised note 3. F to read "In the event that multi-family dwelling units are developed on the Site, a minimum of 5% of such multi-family dwelling units shall maintain monthly rents that are income-restricted for households earning 60% or less of the area median income for a period of not less than 15 years.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously and carried unanimously not to send this petition back to the Zoning Committee.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, to approve and adopt the following Statement of Consistency: this petition is found to be consistent with the Midtown Morehead Cherry Area Plan, based on the information from the final staff analysis and the public hearing and because the plan recommends Residential/Office/Retail land uses. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed mixed-use plan supports the adopted plan's vision to become a pedestrian oriented gathering place where people live, work, play and shop. The adopted plan states that as redevelopment occurs, this area should move toward intense mixed-use pedestrian friendly development, with buildings along the street edge. The midtown area is shifting towards developing new buildings with greater height through other recently approved rezonings in the area. The rezoning plan enhances the pedestrian environment by providing a pedestrian hybrid beacon on E 3rd street between Charlottetown Ave and South Kings Drive along with a 16' wide pedestrian amenity zone along Kings Drive. These improvements help to promote a walkable development. The rezoning plan also commits to a large open space area with pedestrian connections from the sidewalk on E. 3rd Street to the sidewalk along the site's frontage on the third-fourth connector street as modified.

**Councilmember Egleston** said as Dave stated there were concerns in the community around traffic pedestrian safety. Things of that nature. A lot of changes have been made in that regard, but I did want to highlight as well that in this petition and in the previous one by Hopper Communities, we have developers that are coming forward and doing affordable units voluntarily at the request of the communities. Which I think is laudable and in this case, we've got someone saying that 5% of any units that might be built as part of this project would be available at 60% AMI (Area Median Income), which we very rarely see in situations where it's just a voluntary set aside. So, kudos to Tribek Properties and to Hopper Communities both and thank you to the Belmont and the Cherry communities respectfully for being [inaudible] and advocating for more affordability in their community.

**Councilmember Winston** said I appreciate the job that the petitioner has done both on the willingness to potentially include affordable housing should this go up and be a residential building as well as the pedestrian infrastructure improvements. Again, while the situation has improved, I'm still very concerned that we are kind of building into permanence the situation on East 4<sup>th</sup> Street and the collective streets. A couple of colleagues and I were just talking about the way streets have been built and engineered and their relative safety of them. The improvements that the developers going to make are not going to necessarily lessen the accidents that occur here. That won't happen until we decide to engineer this street differently. It's just not feasible to hold this developer accountable to that something that we and the State of North Carolina have to be intentional to fix. Until we do that will continue to be a very dangerous intersection. Hopefully, we can get there.

**Councilmember Phipps** said I would just like to echo the comments of my colleagues. I was very appreciative of the petitioner taking another look at this petition after some of the comments that were made at the public hearing and I think they get that in taking on a lot of the transportation issues and improvements for pedestrian safety and vehicular traffic flow and safety and also the affordable housing component. So, I really do appreciate the effort that was made to enhance this petition to where it is now.

The vote was taken on the motion to approve and recorded as unanimous.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 414-415.

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**ITEM NO. 8: ORDINANCE NO. 161-Z, PETITION NO. 2021-061 BY SUNNY INVESTMENTS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.05 ACRES LOCATED ON THE EAST SIDE OF PROSPERITY CHURCH ROAD, SOUTH OF INTERSTATE 485, AND WEST OF MALLARD CREEK ROAD FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO UR-2 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee voted 6-0 (motion by Ham, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Prosperity Hucks Area Plan (2015) recommendation of residential use, but inconsistent with the plan's recommended density of up to 4 DUA based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends residential up to 4 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because while the proposed density for this petition is inconsistent with the area plan's recommendation of up to 4 DUA, the area plan does say that small clusters of slightly higher density residential are appropriate at strategic locations as elements of a larger development. The recently approved rezoning (2020-088) to the northwest of the site will be constructed as a mixed-use, slightly higher density development, so this lower-density proposal will be an appropriate transition to the single-family neighborhoods to the southeast of the site. This petition helps fulfill the area plan's goals to build a network of local streets in this location by proposing to have a full access driveway to the future Prosperity Ridge Road Extension, which was approved in Rezoning 2020-088. This petition proposes a minimum of a 6-foot sidewalk and 8-foot planting strip along the site's frontages on Prosperity Road Extension as well as internal sidewalks and pedestrian connections, which will ensure safety for pedestrians. The single-family attached dwelling units that front Prosperity Ridge Road Extension or Prosperity Church Road shall be rear loaded, enhancing the pedestrian experience. The approval of this petition will revise the adopted future land use as specified by the Prosperity Hucks Area Plan (2015), from Residential up to 4 DUA to Residential up to 8 DUA for the site.

Motion was made by Councilmember Johnson, seconded by Councilmember Eiselt, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be consistent with the Prosperity Hucks Area Plan (2015) recommendation of residential use, but inconsistent with the plan's recommended density of up to 4 DUA based on the information from the final staff analysis and the public hearing, and because the plan recommends residential up to 4 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because while the proposed density for this petition is inconsistent with the area plan's recommendation of up to 4 DUA, the area plan does say that small clusters of slightly higher density residential are appropriate at strategic locations as elements of a larger development. The recently approved rezoning (2020-088) to the northwest of the site will be constructed as a mixed-use, slightly higher density development, so this lower-density proposal will be an appropriate transition to the single-family neighborhoods to the southeast of the site. This petition helps fulfill the area plan's goals to build a network of local streets in this location by proposing to have a full access driveway to the future Prosperity Ridge Road Extension, which was approved in Rezoning 2020-088. This petition proposes a minimum of a 6-foot sidewalk and 8-foot planting strip along the site's frontages on Prosperity Road Extension as well as internal sidewalks and pedestrian connections, which will ensure safety for pedestrians. The single family attached dwelling units that front Prosperity Ridge Road Extension or Prosperity Church Road shall be rear loaded, enhancing the pedestrian experience. The approval of this petition will revise the adopted future land use as specified by the Prosperity Hucks Area Plan (2015), from Residential up to 4 DUA to Residential up to 8 DUA for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 416-417.

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**ITEM NO. 10: ORDINANCE NO. 162-Z, PETITION NO. 2021-070 BY THE CITY OF CHARLOTTE - AVIATION AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 44.61 ACRES LOCATED NORTH OF MCALPINE DRIVE, EAST OF JOY LANE, AND WEST OF BEAM ROAD FROM R-3 AIR (SINGLE-FAMILY RESIDENTIAL, AIRPORT NOISE OVERLAY) TO I-2 AIR (GENERAL INDUSTRIAL, AIRPORT NOISE OVERLAY).**

The Zoning Committee voted 4-2 (motion by Welton, seconded by Ham) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Southwest District Plan and consistent with the Westside Strategic Plan based on the information from the post-hearing staff analysis and the public hearing, and because the Southwest District Plan recommends institutional land use for most of the site. The Westside Strategic Plan recommends office/business park/industrial for a portion of the site. Therefore, we find this petition to be reasonable



and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the petition is inconsistent with the institutional land use recommendation. However, that land use recommendation reflects city ownership of the property. The contiguous properties to the north and west are zoned I-2. the site is located with the Airport Noise Overlay and is within one mile of Charlotte Douglas International Airport. The site is located within an area that has experienced recent growth in industrial uses. Future development of this site would require adequate buffers against residential uses and zoning in accordance with city ordinance standards. The approval of this petition will revise the adopted future land use as specified by the Southwest District Plan, from Institutional use to Industrial use for the site.

**Councilmember Egleston** said I'll just note that I did confirm with Councilmember Watlington who is in route to join us, but with the deferral from the previous item. She said all of the rest of hers were squared away. So, I'm making the motion but with her blessing on all of the District three ones.

Motion was made by Councilmember Egleston, seconded by Councilmember Eiselt, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Southwest District Plan and consistent with the Westside Strategic Plan based on the information from the final staff analysis and the public hearing, and because the Southwest District Plan recommends institutional land use for most of the site. The Westside Strategic Plan recommends office/business park/industrial for a portion of the site. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because the petition is inconsistent with the institutional land use recommendation. However, that land use recommendation reflects city ownership of the property. The contiguous properties to the north and west are zoned I-2. the site is located with the Airport Noise Overlay and is within one mile of Charlotte Douglas International Airport. The site is located within an area that has experienced recent growth in industrial uses. Future development of this site would require adequate buffers against residential uses and zoning in accordance with city ordinance standards. The approval of this petition will revise the adopted future land use as specified by the Southwest District Plan, from Institutional use to Industrial use for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 418-419.

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**ITEM NO. 11: ORDINANCE NO. 163-Z, PETITION NO. 2021-072 BY NRP PROPERTIES, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 2.92 ACRES LOCATED AT THE NORTHWEST INTERSECTION OF SOUTH TRYON STREET AND TRADE PARK COURT, EAST OF INTERSTATE 77 FROM I-1 (LIGHT**

**INDUSTRIAL) TO TOD-CC (TRANSIT-ORIENTED DEVELOPMENT - COMMUNITY CENTER).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Spencer) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the New Bern Station Area Plan (2008), based on the information from the post-hearing staff analysis and the public hearing and because the plan recommends office and industrial-warehouse-distribution uses for this site. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the site is within a ½-mile walk of the New Bern Station and just over a ½-mile walk to the Scaleybark Station. The TOD-CC district may be applied to parcels within a ½-mile walking distance of an existing rapid station, or within ½ mile walking distance of an existing streetcar stop. The petition would allow for the redevelopment of the site to transit-supportive uses. The site is located in an area of moderate-intensity development, appropriate for the application of the TOD-CC zoning district. The site is in close proximity to a number of areas zoned as transit-oriented development districts. TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening. The approval of this petition will revise the adopted future land use as specified by the New Bern Station Area Plan (2008), from industrial uses to transit-oriented development for the site.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the New Bern Station Area Plan (2008), based on the information from the final staff analysis and the public hearing and because the plan recommends office and industrial-warehouse-distribution uses for this site. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site is within a ½-mile walk of the New Bern Station and just over a ½-mile walk to the Scaleybark Station. The TOD-CC district may be applied to parcels within a ½-mile walking distance of an existing rapid station, or within ½ mile walking distance of an existing streetcar stop. The petition would allow for the redevelopment of the site to transit supportive uses. The site is located in an area of moderate intensity development, appropriate for the application of the TOD-CC zoning district. The site is in close proximity to a number of areas zoned as transit-oriented development districts. TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening. The approval of this petition will revise the adopted future land use as specified by the New Bern Station Area Plan (2008), from industrial uses to transit oriented development for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 420-421.

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**ITEM NO. 12: ORDINANCE NO. 164-Z, PETITION NO. 2021-073 BY PERIOD DESIGN CONCEPTS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.5 ACRES LOCATED SOUTH OF ROZZELLES FERRY ROAD, NORTH OF STATE STREET, AND WEST OF W. TRADE STREET FROM B-1 PED (NEIGHBORHOOD BUSINESS, PEDESTRIAN OVERLAY) TO TOD-CC PED (TRANSIT-ORIENTED DEVELOPMENT - COMMUNITY CENTER, PEDESTRIAN OVERLAY).**

The Zoning Committee voted 6-0 (motion by Spencer, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the West End Land Use and Pedscape Plan based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends mixed-use (multi-family/office/retail) development for the site. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the petition meets the mix of uses land use recommendations for this site as per the West End Land Use and Pedscape Plan. The site is within a ¼ mile walking distance from a Lynx Gold Line transit stop. The site is less than 300 feet from the West Trade/Rozzelles Ferry CNIP funded Five Points Pedestrian Plaza, set to open in November 2021.

Motion was made by Councilmember Graham, seconded by Councilmember Newton, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be consistent with the West End Land Use and Pedscape Plan based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends mixed-use (multi-family/office/retail) development for the site. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the petition meets the mix of uses land use recommendation for this site as per the West End Land Use and Pedscape Plan. The site is within a ¼ mile walking distance from a Lynx Gold Line transit stop. The site is less than 300 feet from the West Trade/Rozzelles Ferry CNIP funded Five Points Pedestrian Plaza, set to open in November 2021.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 422-423.

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**ITEM NO. 13: ORDINANCE NO. 165-Z, PETITION NO. 2021-074 BY ARDENT ACQUISITIONS, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 10.58 ACRES LOCATED ON THE WEST SIDE OF SOUTH BOULEVARD, EAST OF OLD PINEVILLE ROAD, AND SOUTH OF ARCHDALE DRIVE FROM B-2 (GENERAL BUSINESS) TO TOD-NC (TRANSIT-ORIENTED DEVELOPMENT - NEIGHBORHOOD CENTER).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Tyvola & Archdale Transit Station Area Plan, based on the information from the post-hearing staff analysis and the public hearing and because the Plan recommends office/retail use. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the site is just over a ½ mile walk from Archdale Station and approximately ¾ miles walk to the Arrowood Station on the LYNX Blue Line. The property directly north of the site is zoned TOD-CC (transit-oriented development – commercial center). The use of conventional TOD-NC zoning applies standards and regulations to create the desired form and intensity of transit-supportive development, and a conditional rezoning is not necessary. TOD (transit-oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening. The approval of this petition will revise the adopted future land use as specified by the Tyvola & Archdale Transit Station Area Plan, from office/retail use to transit-oriented development use for the site.

Motion was made by Councilmember Graham, seconded by Councilmember Newton, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Tyvola & Archdale Transit Station Area Plan, based on the information from the final staff analysis and the public hearing and because the Plan recommends office/retail use. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site is just over a ½ mile walk Archdale Station and approximately ¾ miles walk to the Arrowood Station on the LYNX Blue Line. The property directly north of the site is zoned TOD-CC (transit-oriented development – commercial center). Use of conventional TOD-NC zoning applies standards and regulations to create the desired form and intensity of transit supportive development, and a conditional rezoning is not necessary. TOD (transit-oriented development) standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening. The approval of this petition will revise the adopted future land use as specified by the Tyvola & Archdale Transit Station Area Plan, from office/retail use to transit oriented development use for the site.

**Councilmember Bokhari arrived at 4:04 p.m.**

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 424-425.

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**ITEM NO. 14: ORDINANCE NO. 166-Z, PETITION NO. 2021-076 BY WHITE POINT PARTNERS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 5.74 ACRES LOCATED**

**AT THE SOUTHEASTERN INTERSECTION OF SOUTH TRYON STREET AND EAST PETERSON DRIVE, AND THE SOUTH SIDE OF EAST PETERSON DRIVE, NORTH OF YANCEY ROAD FROM I-2 (TS-O) (GENERAL INDUSTRIAL, TRANSIT SUPPORTIVE OPTIONAL), O-2 (OFFICE), AND R-8 (SINGLE-FAMILY RESIDENTIAL) TO TOD-NC (TRANSIT-ORIENTED DEVELOPMENT - NEIGHBORHOOD CENTER).**

The Zoning Committee voted 6-0 (motion by Spencer, seconded by Welton) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Scaleybark Transit Station Area Plan (2008), based on the information from the post-hearing staff analysis and the public hearing and because the plan recommends office, industrial-warehouse-distribution, and single-family residential uses for this site. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the site is a ½-mile walk from the Scaleybark Station. The TOD-NC district may be applied to parcels within a 1-mile walking distance of an existing rapid transit station, or within ½ mile walking distance of an existing streetcar stop. The petition would allow for the redevelopment of the site to transit-oriented uses. The TOD-NC zoning district maintains the high level of design standards associated with the TOD-UC zoning district, but TOD-NC is more appropriate for this site due to its lesser intensity and proximity to existing residential areas. The use of the conventional TOD-NC zoning applies standards and regulations to create desired form and intensity of transit-supportive development, and a conditional rezoning is not necessary. TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Scaleybark Transit Station Area Plan (2008), based on the information from the final staff analysis and the public hearing and because the plan recommends office, industrial-warehouse-distribution, and single-family residential uses for this site. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site is a ½-mile walk from the Scaleybark Station. The TOD-NC district may be applied to parcels within a 1-mile walking distance of an existing rapid transit station, or within ½ mile walking distance of an existing streetcar stop. The petition would allow for the redevelopment of the site to transit oriented uses. The TOD-NC zoning district maintains the high level of design standards associated with the TOD-UC zoning district, but TOD-NC is more appropriate for this site due to its lesser intensity and proximity to existing residential areas. The use of the conventional TOD-NC zoning applies standards and regulations to create desired form and intensity of transit supportive development, and a conditional rezoning is not necessary. TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 426-427.

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**ITEM NO. 15: ORDINANCE NO. 167-Z, PETITION NO. 2021-077 BY LUCERN CAPITAL PARTNERS AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 3.07 ACRES LOCATED AT THE NORTHEASTERN INTERSECTION OF RESEARCH DRIVE AND WEST W.T. HARRIS BOULEVARD, WEST OF INTERSTATE 85 FROM B-1 (CD) (NEIGHBORHOOD BUSINESS, CONDITIONAL) TO RE-3 (CD) (RESEARCH, CONDITIONAL).**

The Zoning Committee voted 6-0 (motion by Ham, seconded by Spencer) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the University Research Park Area Plan (2010), based on the information from the post-hearing staff analysis and the public hearing and because the plan recommends office/retail uses. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because while this petition is inconsistent with the Office/Retail future land use recommended by the area plan, the petition does fulfill the area plan's goals of expanding housing choices and allowing for a mixture of land uses throughout the area. Approval of this petition will increase the housing supply within the steadily growing University City Area. This site is proximate to the recently approved Rezoning Petition 2021-030, which also allows for multi-family housing in this group of parcels. The petitioner commits to providing a 12-foot multi-use path and an 8-foot planting strip alongside Research Drive, as well as two pedestrian connections from Research Drive to the site, therefore enhancing the pedestrian environment. The approval of this petition will revise the adopted future land use as specified by the University Research Area Plan (2010), from Office/Retail to Residential > 22 DUA for the site.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the University Research Park Area Plan (2010), based on the information from the final staff analysis and the public hearing and because the plan recommends office/retail uses. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because while this petition is inconsistent with the Office/Retail future land use recommended by the area plan, the petition does fulfill the area plan's goals of expanding housing choices and allowing for a mixture of land uses throughout the area. Approval of this petition will increase the housing supply within the steadily growing University City Area. This site is proximate to the recently approved Rezoning Petition 2021-030, which also allows for multi-family housing in this group of parcels. The petitioner commits to providing a 12-foot multi-use path and an 8-foot planting strip alongside Research Drive, as well as two pedestrian connections from Research Drive to the site, therefore enhancing the pedestrian environment. The approval of this petition will revise the adopted future land use as specified by the University Research Area Plan (2010), from Office/Retail to Residential > 22 DUA for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 428-429.

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**ITEM NO. 16: ORDINANCE NO. 168-Z, PETITION NO. 2021-078 BY M/I HOMES OF CHARLOTTE, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 14.62 ACRES LOCATED ON THE SOUTH SIDE OF RIDGE ROAD, WEST OF MALLARD CREEK ROAD, AND NORTH OF INTERSTATE 485 FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO R-8MF (CD) (MULTI-FAMILY RESIDENTIAL, CONDITIONAL).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Prosperity Hucks Area Plan's recommendation of residential use, but is inconsistent with the recommended density of 4 DUA based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends residential up to 4 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the proposed density of 4.99 DUA is only slightly above the area plan's recommended density for this site, and the residential use is consistent with the plan. This proposal commits to connecting the site's internal public streets to the three existing adjacent public stub streets, two from the existing neighborhood to the west of the site, and one from the existing neighborhood on the east of the site. Building out these connections will further fulfill the area plan's goal of providing an interconnected street layout for neighborhoods

in this area. To the east of this petition are several other recently approved rezonings (2020-051, 2020-120, 2017-135) on this side of Ridge Road, all of them to R-8MF(CD) but with an actual density limit of up to 5 DUA. The petition commits to developing an 8-foot planting strip and a 12-foot multi-use path along the site's frontages on Ridge Road, connecting with the other 12-foot mixed-use paths provided in Petitions 2020-051 and 2020-120, as well as a sidewalk and planting strip alongside the site's internal streets. The approval of this petition will revise the adopted future land use as specified by the Prosperity Hucks Area Plan (2015), from Residential  $\leq 4$  DUA to Residential  $\leq 5$  DUA for the site.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be consistent with the Prosperity Hucks Area Plan's recommendation of residential use, but is inconsistent with the recommended density of 4 DUA based on the information from the final staff analysis and the public hearing, and because the plan recommends residential up to 4 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the proposed density of 4.99 DUA is only slightly above the area plan's recommended density for this site, and the residential use is consistent with the plan. This proposal commits to connecting the site's internal public streets to the three existing adjacent public stub streets, two from the existing neighborhood to the west of the site, and one from the existing neighborhood on the east of the site. Building out these connections will further fulfill the area plan's goal of providing an interconnected street layout for neighborhoods in this area. To the east of this petition are several other recently approved rezonings (2020-051, 2020-120, 2017-135) on this side of Ridge Road, all of them to R-8MF(CD) but with an actual density limit of up to 5 DUA. The petition commits to developing an 8-foot planting strip and a 12-foot multi-use path along the site's frontages on Ridge Road, connecting with the other 12-foot mixed-use paths provided in Petitions 2020-051 and 2020-120, as well as a sidewalk and planting strip alongside the site's internal streets. The approval of this petition will revise the adopted future land use as specified by the Prosperity Hucks Area Plan (2015), from Residential  $\leq 4$  DUA to Residential  $\leq 5$  DUA for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 430-431.

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**ITEM NO. 17: ORDINANCE NO. 169-Z, PETITION NO. 2021-080 BY POLLO HOLDING COMPANY, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.66 ACRES LOCATED ON THE EASTERN CORNER OF THE INTERSECTION OF W. TYVOLA ROAD AND POTOMAC RIVER PARKWAY AND WESTERN CORNER OF THE INTERSECTION OF W. TYVOLA ROAD AND SPEER BOULEVARD FROM**



**MUDD-O (MIXED-USE DEVELOPMENT DISTRICT, OPTIONAL) TO MUDD-O SPA (MIXED-USE DEVELOPMENT DISTRICT, OPTIONAL, SITE PLAN AMENDMENT).**

The Zoning Committee voted 5-1 (motion by Welton, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the Southwest District Plan based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends mixed-use development, as was previously amended under rezoning petitions 2007-082 and 2018-001. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the petition is consistent with the mixed-use recommendation for the site. Through rezoning petition 2018-001, one drive-through service window was previously approved for the site. Drive-through service windows were previously approved on adjacent parcels fronting Tyvola Road. The petition commits to screening drive-through service lanes from the view of public streets.

Motion was made by Councilmember Egleston, seconded by Councilmember Driggs to approve, and adopt the following Statement of Consistency: this petition is found to be consistent with the Southwest District Plan based on the information from the final staff analysis and the public hearing, and because the plan recommends mixed-use development, as was previously amended under rezoning petitions 2007-082 and 2018-001. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because the petition is consistent with the mixed-use recommendation for the site. Through rezoning petition 2018-001, one drive-through service window was previously approved for the site. Drive-through service windows were previously approved on adjacent parcels fronting Tyvola Road. The petition commits to screening of drive-through service lanes from view of public streets.

The vote was taken on the motion and was recorded as follows:

YEAS: Councilmembers Ajmera, Bokhari, Egleston, Eiselt, Graham, Johnson, Newton, and Phipps.

NAYS: Councilmember Winston.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 432-433.

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**ITEM NO. 18: ORDINANCE NO. 170-Z, PETITION NO. 2021-081 BY TAYLOR MORRISON, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 15.98 ACRES LOCATED IN THE SOUTHEAST AND SOUTHWEST QUADRANTS OF THE**

**WEST MALLARD CREEK CHURCH ROAD AND SENATOR ROYALL DRIVE INTERSECTION, WEST OF INTERSTATE 85 FROM RE-3 (O) (RESEARCH, OPTIONAL) TO NS (NEIGHBORHOOD SERVICES).**

The Zoning Committee voted 6-0 (motion by Spencer, seconded by Ham) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be consistent with the University Research Park Area Plan (2010), based on the information from the post-hearing staff analysis and the public hearing and because the plan recommends residential/office/retail uses with up to 22+ dwelling units per acre for residential density. Therefore, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because this petition proposes up to 140 single-family attached dwelling units and 20,000 square feet of commercial uses. The mixed-use nature of the development and the proposed density at 8.79 dwelling units per acre is consistent with the area plan's recommendation of residential/office/retail use up to 22+ DUA. The petition commits to enhancing the pedestrian environment through site design elements such as a minimum 8-foot-wide sidewalk and 8-foot planting strip along the site's frontage of Senator Royall Drive and Alexander Village Main Drive, a 12-foot multi-use path along West Mallard Creek Church Road, and internal sidewalks and pedestrian connections throughout the site. The proposed mixed-use development will aid in fulfilling the area plan's goal of encouraging a mixture of uses in the area, expanding housing choices, and facilitating a development pattern that leads to a more connected street network. The petition proposes a public open space area at the corner of Senator Royall Drive and Alexander Village Main Drive, including amenities such as seating, enhanced landscaping, a gazebo, picnic tables, and a dog park.

**Councilmember Johnson** said I just wanted to say that I appreciate and applaud this developer. Last month if you all recall I express some concern regarding the schools and the impact on the schools and the community of all of this development. This developer listened. As a matter of fact, someone on the development team, one of their children went to one of the schools that were affected, so they understood. So, I just want to applaud this developer for thinking broadly and outside of the box and being willing to invest and look at our community and figure out ways where they can do more than just build, but they can actually invest in the community. So, I am looking forward to this development. This is the type of collaborative spirit that raises the bar for our city and to my colleague, this is the type of developer that we all should be happy to work with. So, thank you.

**Councilmember Ajmera** said during the hearing I had talked about how the University doesn't have parks and I know the University City Partners have been advocating for open space and green space. I had asked for more greenspace to be incorporated into this development. Then Darlene Heater here from University City Partners had reached out and shared with me the plan that the University City Partners is working on, which is to create two park spaces. One is the linear park, and one is the five-acre park and that is all being done by the University City Partners resources. So, I strongly appreciate their

advocacy. Both of the park spaces that they are creating with their own resources, that will be between a mile off of this development. So, with that item we need to double up on our green space here. Obviously, there will always be nice to have more green space, but with that vision, I will be supporting this effort. I certainly appreciate Darlene's efforts here with what they are doing. Thank you.

**Mayor Lyles** said it's always good to hear good things about our partners that work with us to help us develop appropriately.

Motion was made by Councilmember Johnson, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to consistent with the University Research Park Area Plan (2010), based on the information from the final staff analysis and the public hearing and because the plan recommends residential/office/retail uses with up to 22+ dwelling units per acre for residential density. Therefore, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because this petition proposes up to 140 single family attached dwelling units and 20,000 square feet of commercial uses. The mixed-use nature of the development and the proposed density at 8.79 dwelling units per acre is consistent with the area plan's recommendation of residential/office/retail use up to 22+ DUA. The petition commits to enhancing the pedestrian environment through site design elements such as a minimum 8-foot-wide sidewalk and 8-foot planting strip along the site's frontage of Senator Royall Drive and Alexander Village Main Drive, a 12-foot multi-use path along West Mallard Creek Church Road, and internal sidewalks and pedestrian connections throughout the site. The proposed mixed-use development will aid in fulfilling the area plan's goal of encouraging a mixture of uses in the area, expanding housing choices, and facilitating a development pattern that leads to a more connected street network. The petition proposes a public open space area at the corner of Senator Royall Drive and Alexander Village Main Drive, including amenities such as seating, enhanced landscaping, a gazebo, picnic tables, and a dog park.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 434-435.

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**ITEM NO. 19: ORDINANCE NO. 171-Z, PETITION NO. 2021-086 BY JAG DEVELOPMENT COMPANY, LLC AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 4.50 ACRES LOCATED ON THE WEST SIDE OF CARMEL ROAD, EAST OF JOHNSTON ROAD, AND NORTH OF PINEVILLE-MATTHEWS ROAD FROM MUDD-O (MIXED-USE DEVELOPMENT, OPTIONAL) TO MUDD-O SPA (MIXED-USE DEVELOPMENT, OPTIONAL, SITE PLAN AMENDMENT).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Rhodes) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the South District Plan and the proposed density is inconsistent with the General Development Policies based on the information from the post-hearing staff analysis and the public hearing and because the Plan recommends office/retail use as amended by Petition 2017-021. The General Development Policies recommend 12-17 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the post-hearing staff analysis and the public hearing and because the site is located on a major thoroughfare in the Carmel Road Mixed-Use Activity Center, as identified in the Centers, Corridors, Wedges Growth Framework. Mixed-use activity centers are priority areas for developments with a density that accommodates growth in an urban, walkable development form. The Centers, Corridors, Wedges Growth Framework recommends moderate (up to 22 dwelling units per acre) to high (over 22 dwelling units per acre) density residential within Mixed-Use Activity Centers. The proposed density is 67.78 units per acre. This petition supports the vision for the area as a walkable multi-use center that provides a range of options for people to live, work, shop, and play by locating buildings along new publicly accessible, private, network streets with active ground floor uses creating pedestrian-oriented development reducing surface parking, increasing connectivity, and reducing block lengths by providing additional network streets that stub to property lines to facilitate future extension and connectivity. The proposed mix of uses is compatible with nearby multi-family, office, and retail use on Carmel Road. The site is buffered from single-family homes by apartments and non-residential development to the north, south, east, and west which provides a transition in development intensity between single-family and this development proposal. This site supports the General Development Policies goal to encourage a range of housing types and densities. The approval of this petition will revise the adopted future land use as specified by the South District Plan, from office/retail use to residential/office/retail use for the site.

Motion was made by Councilmember Bokhari, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the South District Plan and the proposed density is inconsistent with the General Development Policies based on the information from the final staff analysis and the public hearing and because the Plan recommends office/retail use as amended by Petition 2017-021. The General Development Policies recommend 12-17 dwelling units per acre. However, we find this petition to be reasonable and in the public interest based on information from the final staff analysis and the public hearing and because the site is located on a major thoroughfare in the Carmel Road Mixed Use Activity Center, as identified in the Centers, Corridors, Wedges Growth Framework. Mixed use activity centers are priority areas for developments with density that accommodates growth in an urban, walkable development form. The Centers, Corridors, Wedges Growth Framework recommends moderate (up to 22 dwelling units per acre) to high (over 22 dwelling units per acre) density residential within Mixed Use Activity Centers. The proposed density is 67.78 units per acre. This petition supports the vision for the area as a walkable multi-use center that provides a range of options for people to live, work, shop and play by locating buildings along new public accessible, private, network streets with active ground floor uses creating pedestrian-oriented development reducing surface parking, increasing connectivity, and reducing block lengths by providing additional network streets that stub to property lines to facilitate future extension and connectivity. The proposed mix of uses is compatible with nearby multi-family, office and retail uses on Carmel Road. The site is buffered from single family homes by apartments and nonresidential development to the north, south, east and west which provides transition in development intensity between single family and this development proposal. This site supports the General Development Policies goal to encourage a range of housing types and densities. The approval of this petition will revise the adopted future land use as specified by the South District Plan, from office/retail use to residential/office/retail use for the site.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 436-437.

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**ITEM NO. 20: ORDINANCE NO. 172-Z, PETITION NO. 2021-137 BY THE CITY OF CHARLOTTE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 1.73 ACRES LOCATED NEAR THE NE INTERSECTION OF UNIVERSITY CITY BOULEVARD AND N. TRYON STREET IN THE UNIVERSITY CITY COMMUNITY FROM B-2 (GENERAL BUSINESS) TO TOD-NC (TRANSIT-ORIENTED DEVELOPMENT, NEIGHBORHOOD CENTER).**

The Zoning Committee voted 6-0 (motion by Ham, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition

is found to be inconsistent with the Blue Line Extension/University City Area Plan (2015) with respect to proposed land use, based on the information from the post-hearing staff analysis and the public hearing, and because the plan recommends office/retail uses for the site. However, we believe this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because the petition is consistent with plan guidance in that the requested district would allow for any mixture of uses permitted in the TOD-NC district. The petition's request for a TOD-NC district supports the plan's land use goal that seeks to "Accommodate higher intensity uses that support the various transportation systems throughout the Corridor while protecting the fabric of residential neighborhoods." The request is reasonable as the location meets the TOD Ordinance's locational criteria of being no more than 1 mile to a transit station. The approval of this petition will revise the adopted future land use as specified by the Blue Line Extension/University City Area Plan, from office/retail to transit-supportive uses for the site.

Motion was made by Councilmember Johnson, seconded by Councilmember Newton, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Blue Line Extension/University City Area Plan (2015) with respect to proposed land use, based on the information from the final staff analysis and the public hearing, and because the plan recommends office/retail uses for the site. However, we believe this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because the petition is consistent with plan guidance in that the requested district would allow for any mixture of uses permitted in the TOD-NC district. The petition's request for a TOD-NC district supports the plan's land use goal that seeks to "Accommodate higher intensity uses that support the various transportation systems throughout the Corridor, while protecting the fabric of residential neighborhoods." The request is reasonable as the location meets the TOD Ordinance's locational criteria of being no more than 1 mile to a transit station. The approval of this petition will revise the adopted future land use as specified by the Blue Line Extension/University City Area Plan, from office/retail to transit-supportive uses for the site.

**Councilmember Johnson** said I just wanted to ask Mr. Pettine if you could give a brief overview for my colleague about this petition, please? Maybe not a brief overview, but if you could give some details about the aspects of the City and the donation of land and affordable housing aspect.

**David Pettine, Planning** said I'd like to send that over to Miles. He can work through that with you guys. Thank you.

**Miles Vaughn, Housing Services Manager** said as Dave was referencing is, you may all recall the fact that the strategic approach the City has taken to promote the development [inaudible] affordable housing [inaudible] leveraging our own asset. Leveraging our own land [inaudible] that same goal there. So, what we've done here is

we've identified a site that we think is suitable for the development of affordable housing located within the transit corridors and providing immediate access to this station that is in close vicinity and also [inaudible] this scope and magnitude that would be suitable for that particular area there. So, again we are putting our resources to use with regard to preserving and creating affordable housing. That's one of the initiatives and goals of this particular petitioner.

Ms. Johnson said thank you very much. Mr. Pettine, there was some discussion regarding sidewalks in the area to improve the connectivity. Can you give me an update on that?

Mr. Pettine said there is an eight-foot planting strip and a 12-foot multi-use path along University City Boulevard. That would be part of the project along their frontage. That's part of the TOD (Transit Oriented Development) zoning district requirement that they are looking for, but there is also coordination between C-DOT (Charlotte Department of Transportation) and Housing Neighborhood Services are continuing to coordinate to ensure that the offsite sidewalk gap that we talked about early this afternoon particularly with Councilmember Phipps as well to North Tryon Street is completed in partnership with the future developer of the site. So, along the frontage like I said, there will be an eight-foot planting strip and a 12-foot multi-use path. The goal will then be to complete that gap down to North Tryon between that partnership with C-DOT and Housing Neighborhood Services and the future developer of the property.

The vote was taken on the motion to approve and recorded as unanimous.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 438-439.

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**ITEM NO. 21: PETITION NO. 2021-138 BY THE CITY OF CHARLOTTE REQUESTING REZONING OF APPROXIMATELY 2.60 ACRES LOCATED ON THE SOUTH SIDE OF PROVIDENCE ROAD WEST, NORTHEAST OF MARVIN ROAD, AND WEST OF JOHNSTON ROAD FROM R-3 (SINGLE FAMILY RESIDENTIAL) TO R-22MF (MULTIFAMILY RESIDENTIAL). DEFERRED**

**Mayor Lyles** said I failed to recognize Mr. Driggs at the earlier portion of the meeting to ask for a motion on Item No. 21.

**Councilmember Driggs** said yes, Madam Mayor, I had recommended that we postpone action on Item No. 21 until next months to basically give me an opportunity to engage with nearby residents because there was no community meeting for this. They are unaware and I would just like to have the opportunity to explain what we are doing there before we actually take the action, so I'm requesting one month deferral.

Mayor Lyles said Mr. Driggs asked for that earlier and I failed to include it on the deferral list.

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**ITEM NO. 22: ORDINANCE NO. 173-Z, PETITION NO. 2021-182 BY BIRDCO, INC. AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY .23 ACRES WITH FRONTAGES ALONG DOWNS AVENUE AND SHAMROCK DRIVE, EAST OF NEWELL AVENUE FROM R-8 (SINGLE-FAMILY RESIDENTIAL) TO UR-1 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

The Zoning Committee voted 6-0 (motion by Welton, seconded by Chirinos) to recommend approval of this petition and adopt the following Statement of Consistency: This petition is found to be inconsistent with the Central District Plan (1993) with respect to proposed land use but consistent with General Development Policy's (GDP) density recommendation, based on the information from the post-hearing staff analysis and the public hearing, and because the Plan recommends residential uses up to 8 dwelling units per acre (DUA); and GDP recommends consideration of 8 to 12 DUA. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the post-hearing staff analysis and the public hearing, and because while over the Central District Plan's recommended density, the petition meets GDP's locational criteria for consideration of eight to 12 DUA. The request aligns with the Central District Plan's policy recommendation of promoting "more urban scale infill development...". The R-8 district's intent is to address "urban single-family living." This petition's request meets the intent of the UR-1 district which is "to protect and enhance designated single-family areas and to encourage appropriate infill development within these areas." The approval of this petition will revise the adopted future land use as specified by the Central District Plan, from residential uses up to 8 DUA to residential uses up to 12 DUA for the site.

The petitioner made the following changes to the petition after the Zoning Committee vote. Therefore, the City Council must determine if the changes are substantial and if the petition should be referred back to the Zoning Committee for review.

1. A conditional note that allows context-sensitive design for the UR district which allows existing streetscape to remain along Downs and reserves ROW along Shamrock Drive to accommodate future City-sponsored streetscape projects.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously and carried unanimously not to send this petition back to the Zoning Committee.



Motion was made by Councilmember Egleston, seconded by Councilmember Driggs, and carried unanimously to approve and adopt the following Statement of Consistency: this petition is found to be inconsistent with the Central District Plan (1993) with respect to proposed land use but consistent with General Development Policy's (GDP) density recommendation, based on the information from the final staff analysis and the public hearing, and because the Plan recommends residential uses up to 8 dwelling units per acre (DUA); and GDP recommends consideration of 8 to 12 DUA. Therefore, we find this petition to be reasonable and in the public interest, based on the information from the final staff analysis and the public hearing, and because while over the Central District Plan's recommended density, the petition meets GDP's locational criteria for consideration of eight to 12 DUA. The request aligns with the Central District Plan's policy recommendation of promoting "more urban scale infill development...". The R-8 district's intent is address "urban single-family living." This petition's request meets the intent of the UR-1 district which is "to protect and enhance designated single-family areas and to encourage appropriate infill development within these areas." The approval of this petition will revise the adopted future land use as specified by the Central District Plan, from residential uses up to 8 DUA to residential uses up to 12 DUA for the site as modified.

The ordinance is recorded in full in Ordinance Book 64, at Page(s) 440-441.

**Councilmember Watlington arrived at 4:19 p.m.**

The meeting was recessed at 4:21 p.m.

The recess ended at 5:02 p.m. to move to the regularly scheduled Zoning Meeting.

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## HEARINGS

**ITEM NO. 26: HEARING ON PETITION NO. 2020-112 BY BRI 1882 INNOVATION PARK DEVELOPMENT, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 57.2 ACRES ON THE EAST SIDE OF IBM DRIVE, SOUTH OF WEST W.T. HARRIS BOULEVARD, AND WEST OF INTERSTATE 85 HIGHWAY FROM RE-2 (RESEARCH) TO RE-3 (O) (RESEARCH, OPTIONAL) WITH 5-YEARS VESTED RIGHTS.**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said as mentioned 57 acres. It's in the area of IBM Drive and West of Interstate I-85. The current zoning of the property is RE-2. The proposed zoning is RE-3 with some optional provisions and that five-year vested rights as mentioned. Future land-use from the Research Park Area Plan does call for office retail and residential uses up to 22 dwelling units per acre. This proposal does have provisions to

allow up to 660,000 square feet of gross floor area for non-residential uses, 30,000 square feet max out of those 660,000 square feet would be devoted to retail and personal services and EDEE (eating/drinking/ entertainment establishment) uses. That does allow up to 575 multi-family dwellings. Also, there are conversion rights that allow some of those square footages of non-retail to be converted to multi-family dwelling units at a rate of one unit per 1,000 square feet. Inversely it does allow the multi-family dwelling units to be developed reducing the amount of non-residential gross floor area at the rate of 1,000 square feet per additional multi-family residential so you see can kind of go up or down a little bit based on those conversion rights between multi-family and non-residential uses.

I do have architectural details that allow an optional request which relates to circulation and maneuvering as well encroachment of architectural elements into the setback. A lot of those are intended also to deal with some of the existing conditions and as that site gets redeveloped, be able to adapt to building location and parking locations as that site transitions over time. As mentioned the staff does recommend approval of this petition upon resolution of outstanding issues related to transportation and the environment. It is consistent with that University Research Park Area Plan. We will be happy to take any questions following the presentation by the petitioner's team. Thank you.

**John Carmichael, 101 North Tryon Street, Suite 1900** said I represent the petitioner. With me tonight are Marc Bellet, the petitioner, Shaun Tooley of Land Design, and Michael Wickline of the Design Resource Group. The site as Mr. Pettine said, contains about 57 acres located on IBM Drive, south of West W.T Harris Boulevard. The site is highlighted there. You can see the Wells Fargo facility immediately to the north of the site.

This is a zoomed-in Arial. The site is outlined in green. Innovation Park buildings are immediate to the East of the site. The site once again is a portion of the Innovation Park Development. It is currently zoned RE-2, which is a research zoning district and there is research zoning around the site except to the south of the site there's multi-family zoning.

Once again, as part of Innovation Park, Innovation Park is the formal IBM campus. The IBM campus has been repurposed into a premier 12-building class-A office campus with a very strong tenant base and amenities for the tenants. These are pictures of some of the existing office buildings of Innovation Park. As Mr. Pettine stated the request is to rezone the site to RE-3 optional and the purpose is to accommodate the redevelopment of a 57-acre portion of Innovation Park that's currently a surface parking lot. The purpose of converting such portion of Innovation Park into a multi-use development that would contain office multi-family retail and residential uses. Subject to conversion rights, it will be a maximum of 660 square feet of non-residential uses, which a maximum of 30,000 could be devoted to retail, personal service, and restaurant uses, and 575 multi-family dwelling units. This request is consistent with the University Research Park Area Plan.

This shows the rezoning site in relationship to the existing building at Innovation Park. Innovation Park once again so that the building are to the East. The rezoning plan would allow more urban form with a greater mixture of uses. The building would front internal

streets; architectural standards are part of the plan. The petitioner will build a new public street for the northern portion of the site that would connect to IBM Drive to the East of the Site. An eight-foot planning strip, 12-foot multi-use path would be installed along the site's frontage of IBM Drive. The petitioner would dedicate the SWIM buffer to the county for greenway purposes. We appreciate the staff's recommendation of approval. We will resolve the outstanding issues this week. We are pleased to report that University City Partners is in support of this rezoning petition. We are happy to answer your questions and we certainly appreciate your consideration. Thank you.

**Councilmember Winston** said I have a question for the petitioner. It is more about a philosophy question, I think. Our community is having a different conversations around how to dispense growth strategies all across our City. One of the topics that we are debating is parking and the need to include parking for various types of development. I can't help but notice that this development is taking large amounts of surface area parking and transitioning into the different types of structures and useable spaces. I don't think that would necessarily be too out of the world, but this is in a part of town that is particularly suburban, particularly car oriented. I know there are some concerns again as we are discussing these kinds of philosophies on a city-wide basis of what the future of development means. So, I'm just wondering if you could tell us a little bit about the considerations here because we are removing a large amount of surface parking for a place that really is dependent on car-oriented development. So, how does this work in this part of town, I guess?

Mr. Carmichael said that's a great question. I didn't mention it in my presentation. I was so focused on the three minutes. There would be structured parking that would be built on the site, Councilmember Winston. So, there would be a replacement of structured parking and then the existing Innovation Park also has structured parking facilities. Shaun Tooley, I believe is online. Shaun, can you address the parking question that Councilmember Winston asked? Is there anything that should be added to what I said?

**Shaun Tooley, 223 N. Graham Street** said yes John, your exactly right. Structured parking is being incorporated. As well as the street network thing incorporated and being a little bit more efficient with our parking strategies to be able to have a more mixed-use urban village idea and strategy in this project.

Mayor Lyles said in addition to the parking, the walkability, the trails, can you address that as well Mr. Tooley? Trails, walking connections with the other sites.

Mr. Tooley said sure, so there is a public-street network that's made up of both public and private streets throughout the campus or the park. In addition, there is a future greenway connection on the North Side with proposed public trails and lots of pedestrian connectivity within the site that relies on the mixture of uses, as well as the infrastructure being put in place to kind of better reinforce the pedestrian network for kind of all of IBM.

Mr. Carmichael said that the walkability was one of the things that Mr. Holmes and the University City Partners mentioned in his e-mail to me in communicating their support of the proposal.

**Councilmember Ajmera** said this is a 57-acre development, 57.2. So, it's a huge development. I mean this is going to be transformative. This is as big as almost Eastland, but except this is the northern part of our City. So, I'm still trying to go through all of the material. I might have some questions later on. But what is currently on the site? Is it that IBM campus?

Mr. Carmichael said yes, ma'am. It's the former IBM campus that was converted to this office park that's called Innovation Park. Right now, it's just surface parking. So, it is sort of unutilized. As I said in response to Councilmember Winston's question there would be structured parking and then it will be a walkable mixed-use development as well. Under the current zoning of the site under the floor air ratio limitation of the Research District, you could put about 1.5 million square feet on this portion of Innovation Park just under the current zoning, but it wouldn't allow or certainly wouldn't foster the multiple uses in the urban form that's desired by the property owner.

Ms. Ajmera said thank you, Mr. Carmichael. I may have questions for you later on. So, I will reach out to you.

Mr. Carmichael said okay, thank you.

**Councilmember Johnson** said so, you all know that District 4 is the home of the jobs and this is one of the central locations for those jobs. We've got Centene and we have Wells, and we have all of those other companies. One of the things that the University City Partners and has been on the table for a long time is the last mile transportation. So, this might be an opportunity for us to really press on the gas as Councilmember Graham likes to say. But this is an opportunity for those out-of-the-box solutions or at least prioritize that. So, that would respond to your question about parking because we are seeking some type of solution. Taiwo, we work with the Planning Department for a while on what transportation or alternative transportation there is from the train to that University Research area so that there is door to door transportation solution. So, that's certainly an option for this project, Centene, and all of the other employers in this area. So, thank you.

**Councilmember Eiselt** said what Ms. Johnson said is exactly what I was going to say, and I'd like to ask John, actually that you get a response from the University City Partners because they are very involved in this right now, that First Mile, Last Mile. I'd like to know what they have to say, if they have engaged with this developer, and there is some sort of commitment to participating in First Mile, Last Mile solutions. For something this size, I feel like that needs to be baked in. Otherwise, a year after this opens we are going to be hearing about how they need CATS (Charlotte Area Transit System) to provide circular service to the Light Rail. So, this is a great opportunity to have that conversation.

Mr. Carmichael said we can certainly do that, and we have engaged with University City Partners, Ms. Eiselt in their supportive of other request. I'll talk to them specifically about the First Mile, Last Mile that you and Councilmember Johnson has mentioned.

Ms. Eiselt said thank you because this could be the catalyst to get that going finally. So, thank you. I appreciate it.

Mayor Lyles those points are really well done. Especially with Centene coming with the 3,000 and hopefully more jobs. They are again looking seriously at what they do and if doing it together, it seems to me just to be really kind of a pragmatic approach to this.

**Councilmember Phipps** said I was surprised given the size of this project, 57 acres, only two people showed up to the community meeting. I would have expected more participation in that. But it looks like this is going to be a phased project if it materializes to the point where it's proposed in this petition. Right now, it looks as if it's just another apartment complex that's going to start off first right?

Mr. Carmichael said I don't know. I'll ask Mr. Bellet to answer that but. The apartment project could be built first, but I think they have an office building in permitting for the site because they could do that under the existing zoning. Mr. Bellet, can you address that at all?

**Marc Bellet, 8505 IBM Drive, Suite 100** said yes. Thank you to everybody for your comments and questions. I represent the owner of the property and as of right now most of our development is going to be market driven. So, it will certainly be a phased development. As John was saying we do have a site plan approval in hand for the first office building, which is positioning us to if and when the time is right, we have a tenant to occupy part of all of that building. We can move quickly into the design and permitting for that and construction also and we are in conversation with a multi-family developer about a portion of the multi-family as that might be the more optimal part of the project to construct now based on the market and the commercial arena. So, it's still under consideration in due diligence and we do have that site plan approval for the first office building. So, we are basically going to take what we can as far as what the market will support and develop accordingly.

Mr. Carmichael said and there's 1.8 million square feet that's existing in the Innovation Park development as well.

Mr. Phipps said right so, it's an office that's already there and I guess you got another office planning in the pipeline contingent on a tenant because I thought I read somewhere that you are not going to be doing spec office space there.

Mr. Carmichael said that is correct.

Mr. Phipps said so you have a lot of contingencies in here with phased development in so far as these, did the roads that you are proposing to put in the other non-residential space, is that contingent on the market coming in or will these roads be a part of the apartment construction as well? In other words, the only way those roads are going to come in is if you get this office and those other non-residential uses coming on board, will that trigger the expansive infrastructure improvements that I see here, or if that doesn't materialize then I read somewhere where you can have a conversion of some of those spaces that would result in multi-family construction. Is that the gist of it?

Mr. Carmichael said well there are conversion rights either way. If you only were going to do one office building I don't know that you would need all of the roading infrastructure or one multi-family building at the initial stage. But this is a long-term project without a doubt. It's 57 acres. What they want to do is the plan for the long-term development and they want it to be in an urban form in recognizing that the 1.8 million square feet to the East that they also own while a class A office Park is not in the urban form that they desire. In terms of the infrastructure, it is a phased infrastructure to be sure. Councilmember Phipps, I can talk to you offline about that if you would like me to do that. I don't have that committed to memory.

Mr. Phipps said okay, yes I would appreciate that. I can get offline with you, but it seems to me that infrastructure is contingent on the market putting forth the ability to generate that much density on the site. I noticed that the traffic impact study that's referred to in our notes is under review right now. I was just interested in what response the petitioner had with those comments coming back about the traffic impact study. It might be moot in as much as they might not be triggered until such time as you develop as it is currently proposed. I can get back with you offline on that and those are my comments.

Mr. Carmichael said they would be in relationship to the demand that this site generates, right or cause for the mitigation that would be caused to mitigate what's being built. Not to belabor it but, under the current research zoning, you could do about 1.5 million square feet of usage on this portion of the site under the .60 FAR of that district. It wouldn't allow the urban form in a mixture of uses that is desired, but we are happy to talk to you about that in as much detail as you would like Councilmember Phipps.

Mr. Phipps said thank you.

Mr. Eiselt said getting back to this point again, John, could you actually have some conversation with the developer and with University City Partners about actually having a multi-modal site in there much like what we saw on our trip which was probably about the same size was a site where the bus could come, where scooters can be parked, where a bike can be parked, where Uber picks up, that kind of thing? It just looks like it would be a great site for something like that and be kind of again, the catalyst to have that kind of thing up in the area.

Mr. Carmichael said yes ma'am, I'm happy to do that.

Mayor Lyles said Mr. Carmichael can I ask you for another assignment? First could you define long-term? What is long-term because you've got five-year vested rights but what is long-term mean for you in this project?

Mr. Carmichael said well I don't know if it's more than a year or two, that's why I said long term but in terms of how long it could be a lot of it is going to depend on just the market, Mayor. They don't want to go out there building much spec building and then have them empty because you couldn't afford to do that.

Mayor Lyles said I agree with you. I was just thinking is it the five-year vested rights? Is that it? So, is it really five years we will have the right for this if it's approved?

Mr. Carmichael said well so the five-year vesting wouldn't if this thing were approved six years from now unless the site were rezoned, it would still be zoned for use. You just would lose your vesting. I don't want to give you a false answer. I don't know if it would be four years or seven years or eight years. They certainly would want it to be quickly as possible. Marc do you have any kind of sense if you know? If there is a guess but I don't know if the Mayor wants to hear a guess.

Mayor Lyles said well no, I don't want to hear a guess. You can bring it back when you bring back additional information. The other question I have I know that you are talking about multi-family and you're talking about office buildings. Do you have any correlation between affordability and the pay and the type of office? Will there be affordable units in the development that is affordable in terms of the type of buildings and jobs that are accessible close by?

Mr. Carmichael said as we sit here today, there's nothing in the plan that would commit to any percentage to be affordable to certain AMI. This could be something else that I will talk to Marc Bellet about and the petitioner. Happy to do that. I don't know that we know what the average salary or the salary ranges would be for the employees in this facility. We can talk about that.

Mayor Lyles, I just think that one way to increase multi-modal is to be able to walk across the street to go to work. So, that's a good thing.

Mr. Carmichael said yes ma'am.

Ms. Johnson said I just wanted to elaborate on Ms. Eiselt's comments. In the collaboration with the developer and the community for the transportation. Our Transportation Department and UCP (University City Partners) is already in discussion about this First Mile, Last Mile. So, I was going to ask if Taiwo could just give a brief update on what's going on with Centene and this is a great chance if you can schedule a meeting with this developer or to bring them into the discussion.

**Taiwo Jaiyeoba, Assistant City Manager/Planning Director** said I do know that Departments of Economic Development and the Department of Transportation have been engaged into some conversation with Centene, but pretty much with University City Partners about creating mobility hubs in the University City Area. That's kind of looking at what's possible in the short-term or what can be done in the long term to address First Mile, Last Mile. So, we will be happy to have that conversation with you as well. So, that we can plug you into that discussion because it would take more than one developer or development to make it happen.

Motion was made by Councilmember Johnson, seconded by Councilmember Newton, and carried unanimously to close the hearing.

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**ITEM NO. 27: HEARING ON PETITION NO. 2020-181 BY ALBEMARLE PROPERTY INVESTORS, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 11.24 ACRES LOCATED AT THE NW INTERSECTION OF ROCKY RIVER CHURCH ROAD AND ALBEMARLE ROAD IN UNINCORPORATED MECKLENBURG COUNTY FROM NS, R-3 (NEIGHBORHOOD SERVICES, RESIDENTIAL) TO NS (SPA), NS (NEIGHBORHOOD SERVICES, SITE PLAN AMENDMENT, NEIGHBORHOOD SERVICES) WITH 5-YEAR VESTED RIGHTS**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said as mentioned on Albemarle Road and Rocky River Church Road. The current zoning is NS. There is some portion of R-3 zoning in that top corner of the parcel. Current zoning is for the property to be all NS with the site plan amendment to the existing NS zoning that is currently out there. They are requesting five-year vested rights as well. The Albemarle Road and I-485 interchange study from 2003 does recommend the residential, office, and retail uses for one of the parcels involved. Then multi-family, office, and retail for one of the other parcels that are involved in the rezoning.

The proposal itself is for a maximum of 75,000 square feet of gross floor area dedicated to retail, EDEE (eating/drinking/ entertainment establishment), and personal services use all allowed within the NS zoning district. The request also includes up to three drive-through windows including one dedicated solely for pharmacy use. There is a development area B that would be developed remaining the square footage that was entitled through 2015-101, that established the original zoning. That would also keep two accessory drive-throughs that were originally entitled on that project. There are several transportation improvements that were committed to as part of the project at Rocky River Church Road on Albemarle Road. There will be a southbound left-turn lane and left-through lane as well as a right-turn lane with extension and storage. Site access A would include a left-turn lane on the northbound side of Rocky River Church Road. Then storage shall be provided in coordination with the southbound left overturn lane to Woodland



Beaver Road which serves the site next door. Site access B would be an exclusive right turn. Site access C would be a right-turn lane on the eastbound approach of Albemarle Road. Then site access D would have left-turn lanes at the eastbound approach on Albemarle Road as well as a two-lane cross-section with ingress and egress lane provided for development. Also has intersection improvements to accommodate bike and pedestrian crossings. In the area, they are also committing to maintain the architectural conditions as part of the previous rezoning back in 2015.

As mentioned the staff does not recommend approval of this petition in its current form. We do have concerns about the amount of drive-throughs that are being proposed in total for the site. There are two existing entitled drive-throughs from the 2015 rezoning. Those would remain. They would also add an additional three through this rezoning, so that would give us a total of five drive-through facilities on this project. The staff would be more comfortable with something that is closer to the original entitlements of two from the 2015 petition. We can still work through that number a little bit, but we believe five is a little bit more than we feel is appropriate for this location. We do have some outstanding issues also related to the site and building design and transportation that would need to be resolved. So, with that, we can turn it over to the petitioner and let them go through their presentation. Then we will be happy to answer any questions following that completion. Thank you.

**Eric Hampton, 1111 Metropolitan Avenue, Suite 250** said with BGE. I am here on behalf of the petitioner. Thank you all very much for having me this evening. As the staff kind of walked us through we got a couple of slides we can share here as well. I'll try my best not to reiterate but I do want to make a few points to highlight why we are where we are and kind of why we are seeing the story a little bit different than the staff may be coming from. The slide you have up here in front of you is the overall Cresswind rezoning that was done back in 2015. The portion of the site that we are talking about is a small or about a half of development area B. Development area B is the section along the southern most edge of the 2015 boundary that you see in front of you right along Albemarle Road and up on the northern section of Rocky River Church Road. So, it's really the retail commercial office portion of the overall Cresswind development that's there within the overall site. The zoning boundary that was shown here did not follow property boundaries and so some of the things that we are having to be sensitive to are that the petitioner and Equinox Development or Albemarle Property Investors does not control or have overall development rights to the entire balance of development area B. So, we are working with the Helms family which is immediately to the west of us to make sure that we are trying to respect and be good neighbors with what the entitlement is of development area B overall. Then the portion of what we are actually coming forward with for your consideration.

This just shows you the general balance that this is the actual survey that we have done on-site. The larger portion of the development there is currently zone NS. So, this was part of the 2015-101 petition. This small .69-acre section there on the northeast corner is a square A construction site. We are bringing that into the overall development boundary.

So, that's one of the three triggers for why we are here before you this evening is that parcel is currently zoned R-3 and was not included in the 2015 boundary. So, we are trying to bring it in conformity with the NS and the overall development.

This is the current form of the site plan and this was shown in the staff report as well. We've been through a number of iterations with the staff, C-DOT (Charlotte Department of Transportation), and NC-DOT (North Carolina Department of Transportation) to get us to where we are here this evening with this plan. We are holding all of the off-site infrastructure improvements that were contemplated in 2015's rezoning petition. So, all of that public way investment is included in this petition. Additional, because we've got more specificity on the site plan uses than what that previous petition had, there is additional improvements that the petitioner has brought forward and is committing to, that were highlighted by staff as well that we have also committed to in terms of additional access turn lanes primarily on Rocky River Church that those had popped up. Then also additional pedestrian improvements at the northern side of Albemarle Road and Rocky River Church intersection that is shown there on the bottom right-hand side of your screen. Currently, there is no pedestrian environment out there to speak of at all including the recent petition that have probably come before you all in the last several months. So, the crossing would then have a pedestrian piano-style crosswalk there, and then we've upgraded all of the perimeter frontage pedestrian ways from the standard sidewalk that was contemplated in 2015 to incorporate this 12-foot multi-use path that is shown on the plan as well. So, there's a lot of pedestrian and intersection improvements that's also shown within the overall development. This is primarily a grocery-anchored development. The overall development area and development type is consistent with the overall entitlement square footages and uses that were contemplated in 2015. One of the staff comments here is that this is predominately a retail-only development. When you look at this in the whole of development area B, that's when you are getting your mixture of uses. While that plan is not before you this evening, that is contemplated to have more of the mixture, and it was also shown to have more of the mixture in the previous petition than the hard corner here at these two major roads that has more lending itself to a traditional retail type environment.

Several of the things that we wanted to bring forward and discuss with you all this evening, we talked about the square A parcel needing to come on and be rezoned. So, that was one of the big reasons before you. The other condition that we needed to be rezoned for is the street that's right in the center of the plan that's running east-west in front of the grocery and attached retail, that street, in the prior rezoning was contemplated as a public street that would limit the number of driveways and interconnectivity that would happen with the traditional grocery parking field. So, that was the second reason is that we needed more of a traditional interaction there. It's still being designed as a public street. We are just allowing more of those spine parking connections in a traditional parking type environment. The third was having to do with the drive-throughs. So, I wanted to spend a few minutes talking about that and can certainly answer any more questions as well. We are trying to maintain the two-existing drive-throughs for the overall development, for the balance of development area B to the west of us are proposing a single pharmacy pick-

up window. It's there on the western face, plan west of the grocery store on the upper left-hand corner of the site. That would not have the que and the visibility concerns that usually come with drive-throughs. That is usually a one or two-car stack purely for pharmacy pick-up. It has nothing to do with the rest of the grocery use at all. Then a drive-through on each of the two our parcels.

As I'm sure you and your families have experienced, COVID (mild to severe respiratory infection caused by the coronavirus) has changed the way we shop and interact. Don't hear drive-through and immediately assume fast food. We are seeing a lot more of our tenants and our retailers that have not traditionally done pick-up windows or call-in windows, or drive-throughs start using this type of asset because that's the only way that we have been able to interact with them as retailers or restauraners. An example of this would be Chipotle or Outback or Texas Roadhouse is an example that are traditionally a sit-down dine-in restaurants are starting to have some version of a drive-through. A lot of time it's either for call ahead or Uber Eats or it's just a pick-up window. It's not the long queue that you see at traditional fast-food restaurants. So, that combined with what we're seeing in the rest of the corridor that immediately to the east of us on the corner just off of your page is a planned McDonalds. Immediately plan south is an operating Arby's. Further east of us is an operating Bojangles that are all very traditional suburban drive-through fast-foods. This would not be out of character with this suburban corridor on the outskirts of uptown. So, for those reasons and the market demands. That's why we are really seeing the drive-throughs be integral to this overall development but not the way you would normally see it with a traditional fast-food restaurant. Again, I am happy to answer any questions and I respect where the staff is coming from. We are just seeing this from a market pressure a little bit different.

Mayor Lyles said Ms. Samuels please let us know if you have any questions from the Zoning Committee as we're going through this. I just want to make sure that you guys are good.

**Councilmember Newton** said I'm familiar with this proposal. This rezoning would bring a grocer to the area which is much needed and very much supported by the community. If my colleague would notice in the materials that we have, there were 50 people that showed up to the community meeting and there is no opposition from the community on this. That's a large number of people to show up to a community meeting. So, I just wanted to underscore that point and all so mention two that this was an area up to maybe a year or two that had been considered a food desert as well. So, even more, the reason why we would want to see a grocer here. So, it's been my understanding that the sticking point is a drive-through. That particular drive-through would create accessibility for a pharmacy or for so I guess a pharmacy drive-through on the side of the grocer which also seems to make a lot of sense in the area to give you some additional context to your Cresswind is a Senior development right behind this. Then there is also a Novant facility about a block down the road. So, very complimentary in nature. My questions having said all of that, are for the staff. First and foremost, do we have a good assessment or indication of what exactly, I read through the materials here, I see that the concern for an

additional drive-through here would be somehow its ability to undermine a pedestrian environment. I'm just wondering do we have a good assessment of what increase or decrease in pedestrian activity an additional drive-through would create or alternatively what increase or decrease in traffic that would create?

Mr. Pettines said as far as the increase and decrease in traffic I think I would defer that to C-DOT, and we may need to provide that in a follow-up report. I think from the standpoint of having the amount of drive-throughs that are proposed, the amount of drive-throughs that were mentioned as part of this overall corridor if you recall we did have a rezoning just across the street where that McDonalds was mentioned. We weren't really thrilled about the second drive-through addition on that, but that would continue to move through. There were some by-right entitlements for it as well, but overall, when you run into a scenario with such an auto-oriented arrangement of uses particularly when we talked about that public street that is now a public street with access to all of the parking aisles for the grocery store, you really lose that pedestrian interface that was really intended for the project outcome. So, now we are looking at a street that really functions as a pass-through with access to all of the drive aisles for the parking area, for the Publix's grocery store or grocery store that may be coming, I apologize at parcel one could be a drive-through, could be an EDEE, it could be a restaurant of some sort. At parcel two you've got another drive-through proposed there. So, that pedestrian amenities are there in place, but we are also building within too an auto-oriented network of uses. So, it's kind of counter-intuitive to having good pedestrian facilities when you've got auto-dependent and auto-oriented uses. So, I think that's where the general concern lays. If we added one drive-through may be on the hard corner that's something that maybe the staff could be comfortable with. Those internal drive-throughs on our parcel one and maintaining an additional two just next door is where we start getting into just having nothing but drive-through facilities that could be more detrimental to that public pedestrian interface along Albemarle Road and internal to the site. I think that's where our general concern comes from.

Mr. Newton said I guess for me I look at this and I know where it's located. It's an ETJ (Extraterritorial Jurisdiction) which is a little bit more of the beaten path for what we see on Council. So, I feel like it's maybe worth exploring the pedestrian interface aspect of this a little bit more from that lens. Having said that also noted in the materials that we have in front of us that this petition would actually enhance the pedestrian environment and I'm wondering is there an offset here in that regard because certainly and I think that the speaker had alluded to this. We are talking about quite a pedestrian walkway, so sidewalk connection on, it looks like two large roads leading over to Albemarle and connecting with Rocky River Road. I'm wondering here, understanding that if we are talking about a pharmacy drive-through that is complimentary for the area something I think make a lot of sense particularly as it pertains to the establishment of the grocer here, is there an offset there understanding that the pedestrian environment is going to be significantly improved anyway.

Mr. Pettines said the pharmacy drive-through isn't, I don't think that is a concern for us. We are comfortable with the pharmacy drive-through. I think it's the additional two EDEE drive-throughs and then a third that would remain on the out parcels still on parcel B from the previous rezoning. Yes, there are some pedestrian improvements particularly the facility that will provide a crossing across Albemarle Road and Rocky River Church intersection. That's a great accommodation to include, but we start to lose the effectiveness of that when we continue to introduce auto-oriented uses that will just drive that continued traffic to this site through the need to really access those and have that drive-through dependent type of outcome for those two out parcels along the road. So, I think that's where the improvements are needed and they certainly are welcome and good accommodation to this corridor, but I think as you start to continue to add auto-oriented uses and then maintain an additional two drive-throughs from the previous rezoning for a total of what would be, I guess, three EDEE drive-throughs. One Pharmacy and then one that could just be a standard drive-through for another type of use you start to kind of chip away at the effectiveness of those pedestrian improvements that are put in place.

Mr. Newton said I'm intrigued by the speaker's comments pertaining to kind of this new age in which we are living, current COVID, and then potentially post COVID. The fact we are likely going to be seeing more restaurants. Not just the prototypical kind of drive-through style restaurant but full-fledged restaurants with pick-up windows that in and of themselves constitute drive-throughs. I think from the standpoint of our ordinances. I think maybe it is worthy of a conversation for us to have moving forward. This petition is maybe grounds for us to do that because it seems to make a lot of sense for me. I really look forward to continuing that conversation with you, Dave, the staff, and the petitioner moving forward. Those are all of my questions.

**Councilmember Driggs** said I wanted to acknowledge that the staff's reluctance to go to a more auto-oriented development here is in line with our policy and our general attitude about cars. So, I appreciate that. I'm curious, you mentioned the COVID, the changes, and the kind of consumer behavior is because of COVID are an influence here. Given that this will not actually be built for years are you working on the assumption that these conditions are going to prevail all of that time or would remain in effect once we have worked through the immediate impact of the virus?

Mr. Hampton said I think that is an excellent question. I think what we are seeing is much like many other things we are seeing in our everyday life. That COVID was a catalyst for things to change. It's changed a lot of our behaviors and how we shop, how we interact, how we dine. So, I don't think even after COVID is, Lord willing, behind us soon that these patterns that it was a catalyst for are going to recede automatically. I think we have changed. So, when you see these major restaurant players start changing how they interact with their customer base, it's not something they just reacted to as a short stint deal. So, that's where we are starting to see a lot of these players that are historically only sit-down restaurants have some sort of interface for that more routine access. So, where it's not that traditional drive-through where you pull up to call-backs an order and wait for your food to be made. It's more of a pickup style window or an Uber Eats, where the

customer is not even interacting with it or it may be their own drivers that are interacting to retrieve the order and take it to the residents. All of the information that we are see from the major restaurant player is that this is a trend that is going to remain.

Mr. Driggs said I am inclined to take their word for it to the extent that the other guys investing the money and making the bet, but we just struggle with it a bit because it pushes the exact opposite to the goals of our 2040 Plan and some of the other things that we are trying to achieve. So, I look forward to learning more about it. Thank you for that.

Mayor Lyles said Mr. Driggs I don't know if this is the best time to intervene with this question, but we had a conversation with the Planning and the Assistant Manager about this today. What I'd like to actually see is if we can get the Economic Development Group to actually give us some data around this because it may not just be COVID. There might be many other factors, but we still have to struggle with the idea of cars idling on our streets and our clean air as well. Not everybody going to have an electric car and how do we deal with that? This weekend I had the opportunity to drive by the Woodlawn new no-seat on the inside Chic-Fil-A. The line was backed up into the curb and one car had pulled up on the side of the last car and people were trying to come around. I think this is a traffic safety issue as well. So, while we are trying to adjust to all of these changes, I think we need a little bit more data. We need more ideas from the retailers and developers. I've asked to ask the Economic Development to give us some kind of, where do we see it going, because I'm just not quite sure where it is. I know that is not just an issue of what retail is doing. It's what's happening on city streets. That gives me some real concern. So, I'm going to ask that and see if we can find out and get some more information about it. Not just from that perspective, but from our clean air, our emissions control, and things like that.

Mr. Driggs said so Mayor I agree with that. I'm inclined to take the commercial people who are investing their money at their word in terms of what they think is happening, but I don't feel that we are obligated to be entirely driven by that. Our purpose here is to kind of influence commercial behaviors towards a greater good. So, I'd be interested to see that as well.

Mayor Lyles said so thanks to the team for taking that on for us. Well, I had some questions because and this is probably what the staff will have to do. When you come back with the information on this, when I look at the map it looks like not counting the pharmacy drive-through. There are five entrances to a Publix. I shop at Cotswold a lot and they are one of the busiest places that I've seen. It's a full shopping center and I think I counted four for them. So, I would like to actually get some idea about why five fast-food, not counting the pharmacy.

Mr. Hampton said within the context of this petition id be two and then the drive-through. So, it would be three that were contemplating this petition.

Mayor Lyles said and then you've got the entrances and exits just for singular or one grocery store. A large one of course, but I think about the one at Cotswold, the new Publix. We required them to do just one or two and I'd like to get some idea of the scale of what we are trying to do. Is this more than what we usually do or equal to what we usually do? Why would we see the number of access points, because while I think that some people would say that enhances pedestrians, the more cars, and entrances you have, and I only saw one crosswalk on the plan that was submitted? I don't see that it is helping pedestrians very much. So, I understand what we are trying to do. We are trying to have a grocery store that people can come and shop. We are also recognizing that you've got two drive-throughs where there's retail opportunities to try and test some of these things out, but I just wonder if we could get something that would actually be more than what we have here that helps me understand the size and the magnitude of this and what it accomplishes.

Mr. Pettine said certainly, we can do a comparison to what was entitled previously and what's being proposed, and the difference between the two.

Mayor Lyles said and some examples of other places that we are all familiar with. That there is something out in the areas that we are seeing where we have a single grocery store and what do we do for grocery stores of this size? That would be very helpful because I don't know what the market is, but I know people will come to the grocery store and it seems to me that there really wasn't an entrance for Cresswind. How would they come through that? I'm not really sure, but that's what I think the practical look for this isn't really easy to see here.

Mr. Hampton said we'd be happy to provide an overall kind of infrastructure exhibit for you to highlight that. Quickly on the far left-hand side of the street, that main drive that's connecting to Albemarle Road is a public street that actually goes up into the overall Cresswind development. So, that's one of the spine roads that's required for the overall Cresswind development that is our burden, the developer of this portion of the site to build. Then there is interconnectivity between us in the last phase of Cresswind on the immediate northern edge of your site. That driveway that you see is also a required connection from that 2015 petition to provide interconnectivity, but all of the interconnections and points that you see with the exception of the upper left that came with that new parcel we are bringing on board were shown on the 2015 and were required improvements as part of that petition. So, we tried to respect that as much as we could.

Mayor Lyles said a lot of the improvements are concrete barricades, there are no lane closures or passing lanes. It's like a lot of concrete in the middle of the road to make sure that it's traversable for the amount of cars that are expected. So, I'd just like a little bit of scale, but I also know that it's getting time. We really appreciate you. Thank you for being our first guest to come down and speak to us today.

**Councilmember Ajmera** said I just have two questions and it could be part of our follow-up report. So, these additional drive-throughs, are those for EDEE? We need an example

of that. If you are able to share something that you have planned as part of your tenant agreement.

Mr. Hampton said I think at this stage we have any of those tenant commitments in place, but examples of those would be some of the sit-down restaurants that I alluded to before. Our petitioner interacting with those types of the restaurant providers now. It's could also be more of a multi-use building with an endcap version of those like a Panera Bread that may have a drive-through that doesn't traditionally have one. So, those are the types of restaurants that we are targeting. Not necessarily having two fast-food restaurants on either of those two out parcels. The main volume of interest that I'm a least seeing from a site planning standpoint is more on that higher end, more traditionally sit-down type variety.

Ms. Ajmera said what kind of grocery store are we looking at here? So, the grocery store, is not a drive-through correct?

Mr. Hampton said the drive-through that's shown there by ordinance is defined as one. I think that's our only option under the ordinance, but it is legitimately just a pharmacy pick-up window. You cannot go through there and get anything else from the grocery store itself other than picking up your pharmacies. So, this is a high-end market setting, market plus grocer that you are all familiar with, that I can't divulge yet. This is a very high-end grocer for this area that is very much in need and to Councilmember Newton's comments with the amount of interest we got during the community meeting to not have anyone here in opposition speaks to us that they are excited about that opportunity.

Ms. Ajmera said I think we have to balance if he the concerns that were raised by my colleagues about pedestrian safety and how do we make this where we have access to the grocery store, but at the same time we considering pedestrian safety. So, I'm sure we will figure that out. Thank you.

Motion was made by Councilmember Driggs, seconded by Councilmember Newton, and carried unanimously to close the hearing.

**Councilmember Egleston** said anybody who is watching who has low or no water, Charlotte Water has just posted, and we've heard from several people in the last few minutes, there is a large water main break on Remount Road that's affecting several zip codes. They are working to isolate the incident and get services restored, but folks in those areas can expect low to no water pressure throughout the evening.

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## **PUBLIC HEARING**



## **ITEM NO. 2: PUBLIC HEARING ON PROPOSED DRAFT REDISTRICTING MAPS**

**Mayor Lyles** said many of you are very much aware that because of the requirements of the census that we had a process with an Ad Hoc Committee of the Council included to help us as we have grown as a City to create the one person, one vote rules and still maintain our district representation as well as our at-large representation. Many of you are aware that we have the maps and I believe tonight I'm going to have Councilmember Graham introduce the presentation and then we will have a Public Hearing. When we have a Public Hearing, we keep the notes that you have addressing the issue. We will respond to this by having those questions and comments referred to the Ad Hoc Committee which will then provide solutions or responses to those questions and a report to all of us as well as you will have access to that report virtually as well as online as well as participation if you are watching the committee discussion.

We have 17 speakers signed up to speak and each speaker will have two minutes to speak on the item.

**Councilmember Graham** said anticipation of receiving the 2020 Census the Mayor as she indicated it is set up for the Redistricting Committee. She asked me to Chair it along with asking Councilmembers Ajmera, Driggs, and Phipps to serve as Committee members. In addition, the City of Charlotte also contracted with Charlotte Area Law Firm Parker Poe a Land Planning Firm to focus on assisting with legal and demographic, and data information. Mr. McCarley is here. So, he will make the presentation before the Public Hearing starts to provide content to what we are doing here this afternoon.

**Attorney Mac McCarley, Parker Poe Law Firm** said with your permission I will go through a little bit of information that will help the community understand what you are looking at in these maps. So, the committee adopted criteria for drawing the maps. That criteria is first that the population in each of the Districts needs to be substantially equal. The total population of the City according to this Census Bureau is 875,653 people. If you divide that by seven, which is the number of Districts, then the ideal size for each District would be approximately 124,950 people. We refer to that as the ideal District size. So, that if all of the Districts were that size the population would be completely equal. However, the law allows some variation from that as long as to follow the one person, one vote rule, as long as the largest District is no more than 5% above the ideal size and the smallest District is no more than 5% below that size. So, the next criteria is that the Districts should be reasonably compact, and each piece of the District must be continuous to every other piece of the District. You can't have islands of precincts that aren't attached to the rest of the precincts in that District.

The next issue is a legal doctrine called communities of interest. Communities of interest is a relatively subjective term. It means if there are people who have some traits in common, either race, income, ethnicity, issues with what goes on in their neighborhoods. For example, if you live near the University or near a large mall like South Park Mall or

you live near Transit Corridors, if there are things that really define the essence of an area then the people who are in that area should be kept together if possible.

The next one is that the Committee determined that we should in all cases follow precinct boundaries, not split precincts to get to the mix. Next, we may consider race as one factor in looking at the Districts, but it is not to be the predominant factor. The next one is that the District should be sized if possible for growth. What we are looking at is we can tell you which Districts have grown the most and which ones have not grown that much since 2010 redistricting. If possible it would be good to have the Districts that we expect to continue growing to be a little bit under the ideal District number and those that are not going to grow as much or not expected to grow as much, to be just a touch above it. I will tell you that that has been the hardest criteria to meet because precincts are not fungible. It's not that every precinct is the same size for geography or the same size for the population. That makes it difficult to swap them out. The smallest precinct in Charlotte is only a little over 1800 people. The largest precinct is 18,000. So, it's not a one-for-one swap when you start moving them. That's particularly difficult when you look at the map and you realized that the precincts in Districts 2 and 4 are geographically larger and typically the population is larger than a lot of the other precincts in the City. So, it is difficult to move those on a one-for-one basis.

The last criteria were to avoid contests between incumbents. Let me be very specific about that. It doesn't say protect incumbents it just says avoid contest between them. So, we have tried to keep from what's called double bunking any incumbents who said that they plan to run for reelection in their District seat. So, that was the criteria that was used.

Now let's talk briefly about the population. I mentioned to you that the ideal District size would be almost 125,000 people. Of the seven Districts, five of the seven were outside of the 5% variants that's allowed by law. So, District 2 is only 3.5% above the ideal size and would meet the constitutional requirement. District seven is only one-tenth of 1% above the ideal District size. Meaning basically that it grew at exactly the average rate of growth for the city-at-large. The other five are all out of whack, either above or below the 5% variants. So, District 1 is 8.2% below the ideal. District 5 is 6.5% below and District 6 is 9% below. That's a fairly large variant. On the other side those that are over, District 2 is over at 3.5% which would be allowable constitutionally. However, District 3 is 12.8% over the ideal, and District 4 is 7.6% over the ideal. So, the task, just boiling all of that down, is that we need to move the population from three, two, and four into one, five, and six. The population in District seven was basically right on the target, so, nothing needed to be done to it unless we needed to move it for some other reason. Now, let me make one other statement about when I use the word move. When I say we're moving a precinct that does not mean that we are moving where people vote in their precinct or that we are just generally, physically moving the precinct anywhere. All that it means is that we're reassigning that precinct from a current City Council District to a different City Council District, but their precinct location will not change. The City Council doesn't have the authority to move precincts or precinct locations. That's under the jurisdiction of the Board of Elections. So, none of this means moving a precinct location or where people vote.

So, the task was to move that population. Now, up on this screen, you see a map of the City of Charlotte. I referred to Districts 3, 2, and 4 being too large. District 1, 5, and 6 being too small. So, if you look at those three that are too large you notice that all three of those have large geographic precincts and that especially one and six, and to some extent the southern portion of District 5 have smaller precincts. So, the difficulty here is moving the population around clockwise from three to two. When you move population from three to two, three remember was the largest of the precincts by population, when you move it from District 3 to District 2, District 2 was oversized. So, now it's doubly oversized. So, we need to move the population out of two into four and to one, the two that it borders. Remember that four was also over the ideal District size. So, now we need to move the population out of District 4 into Districts 1 and 5 the two that it borders, and when all of that is done we also need to move something out of District 5 and 1 into District 6 to get it to as close as possible the ideal size. So, when you move this population around in a clockwise direction, it is difficult to pick precincts that work for that. So, again if you'll look at the map with me, if we are moving it from District 3 into District 2 there are ever few precincts across the northern border of District 3 so, there are very few to show from. Once you move some of those into District 2 there aren't as many to choose from on either the eastern boundary or the northern boundary of District 2 to move into Districts 4 and 1. The really difficult one is figuring out which precincts are available to move out of District 4 into Districts 1 and 5. It is very difficult. So, that is basically the task before us. With that background let's take a look at the draft plans in front of you.

Map A, the one that's on the screen now, is basically the least changed map. That is the only criteria applied to draft this map was whether or not we could get the Districts into constitutional compliance with the requirement that no District be above or below the ideal size by more than 5%. That was the only criteria that we tried to meet with that. It moves only three precincts. It does get all Districts within the variants that's allowed. But it doesn't account for communities of interest and it doesn't necessarily account for growth. The growth issue here leaves District 2 at 3.5% above, which is where it is today, and District 4 literally at 4.8%. One of the three that's expected to grow would literally start just barely under the constitutional limit of 5%.

A quick note about why this matters. One person, one vote means that each person's vote ought to count the same amount as someone else's. I going to use a real and wild example to illustrate the issue here. The State of California has over 39 million people living in it. The State of Alaska has 733,000 people living in it, but they both get two U.S. Senators. Well, what that means is that very few people are required to elect a senator in Alaska and a whole lot of people are required to elect a senator in California. That makes the value of the voter in Alaska, the smaller of the two, much more valuable. So, this is one of the few times that bigger is not better. It is better if you're looking at the strength of voter's participation to be in a smaller District than a larger District. So, trying to make sure that we could get District 3, 2, and 4 close to ideal or under it if possible was a goal, but because of the size of those precincts, it was very difficult to do that.

Next to Draft Plan B. This one moves 15 precincts. Six of the seven Districts are affected. The one that is not is District seven. It's right at the ideal size today. It doesn't need to be moved unless something else requires movement. The growth issue, all of the Districts are close to the ideal size, but the population in Districts 2 and 3 aren't below the ideal. District 4 is only six-tenths of a percent below the ideal. Again, it was just very, very difficult to move the amount of people we needed to move, the population number to be moved, and also account for growth. The map just doesn't work very well to do it. This map better aligns the communities of interest than draft map A, but not as well as draft map B1, which was developed after public input at the Committee's listening session.

Draft Plan B1 moves 16 precincts. Again, six of the seven Districts are affected. Not District 7. The growth issues are identical to plan B for Districts 2, 3, and 4. The difference on growth is that District 2 is reduced. It goes from being plus one percent above ideal to minus seven-tenths of one percent below and District 5 is increased from 3 tenths of a percent above ideal size to 2.1%. The key difference between B and B1 is that we moved the rest of the Central Avenue corridor represented by precincts five and 45 into District 5. Precinct 45 is right beside precinct 84, which is the precinct that contains the old Eastland Mall site. Now, the Eastland Mall redevelopment site. The mall is actually in the lower left-hand corner of that precinct, which borders precinct 45. Precinct 45 borders five going toward Uptown. Both of those precincts are part of the Central Avenue Corridor and will be part of the Eastland Mall redevelopment area. It just makes sense to move those back into District 4. So, that's the key difference between B and B1.

Draft Plan C was drafted using compactness as the highest priority. That is trying to straighten the edges of as many of the Districts as we could. It does move 17 precincts. The growth factors are that Districts 2 is now one-tenth of one percent below ideal. District 3 is seven tenths of a percent above. District 4 is 2.2% above ideal. It doesn't align precincts five and 45 with District 5 as B1 does. It does, however, align precinct 99 with District 5. Precinct 99, if you would look at your map is the eastern most precinct in what was District 6. It would move it to the border onto District 5. The demographics of that precinct probably better match District 5 than they match District 6.

Bottom lines. We had to move a large population number to get these Districts to balance. The population had to come out of Districts 3, 2, and 4. All of the plans meet the constitutional requirement of one person, one vote. But some do a better job of it than others. To the best extent possible districts, 2 and 4 maintain the same percent of the black population as exist today, and District 3 loses only 2%. So, putting numbers to that racial demographic on the different plans. Today District 3 is 40.2% black. In plan A its moves to 42.3%. In plan B it is 38.3%. That is basically two percentage points below where it is today and in B1 it's 38.3%, and in C it is 38.3%. District 2, again, these are the three Districts that have historically elected black representatives despite the fact that none of them is a majority, minority District. But in District 2 today the black population is 54.3%. In A, it remains 54.3%. In B it is 54.2%. In B1 it's 54.2% and in C it is 54.7%. The last of the Districts that has historically elected black representatives is District 4. Today that District is 43.9% black. In Plan A it's 44% black. In B it's 43% black. In B1 it's 43%

black and in C it's 44.3% black. So, in District 4 all of those numbers are within 1% of each other in the changed maps. I will be glad to answer any questions from the Council before you open your public hearing.

**Councilmember Eiselt** said I'm not on the Redistricting Committee. So, I didn't perhaps hear this meeting, but you made a comment that some of the maps you do believe exacerbate segregation. Could you elaborate on that comment?

Mr. McCarley said yes if I said exacerbates segregation I didn't mean to. The verb is very important here. I don't think it creates it. The tension here is between communities of interest and a concern over segregated housing patterns. Nothing about your districting system creates or exacerbates those housing patterns. Those are driven by something entirely different. I can't imagine that any realtor has asked what Council District will this house be in. They will be asked what school district it's in, but I doubt anybody ever asks what Council District is this going to be in. So, it doesn't exacerbate those. The tension is between that issue on one hand that we recognize we have some segregate housing patterns. On the other hand, communities of interest. The case law would say that keeping communities of interest together is a positive benefit, it's good. So, in all three of these changed maps, for example, we have kept the racial balance as close as possible to the existing racial balance for Districts 3, 2, and 4. So, that we didn't upset the ability of those Districts to continue to elect black candidates if that is the will of the people in that District. That was a critical issue. Looking at that top align number for the percentage of the black population and those and it's very similar in all four of the changes map. All of them are very close to what they are today. So, do I believe that your districting decisions drive housing patterns? No, ma'am, I don't. I believe that they may be a result of housing patterns more than they are causes for housing patterns. Does that answer your question?

Ms. Eiselt said yes. Thank you for clarifying that. I think it is an important point. If I misunderstood it then maybe a few other people did as well. So, I appreciate it.

**Councilmember Driggs** said so Mac, minimizing the number of precincts that we move is [inaudible] among our criteria. Why do you offer us Map A?

Mr. McCarley said one of the issues in redistricting is sometimes voter confusion and usually there is a push to move as few precincts as possible to achieve the goals that you've set out. So, if meeting a goal that was not one, picked by the Committee of moving the fewest precincts so that you would confuse the fewest people in this very shortened election session if that mattered, we at least looked at the least change map. I don't think it meets very many of your other criteria though.

Mr. Driggs said is it fair to say that Map A is perhaps more informational than intended to be a real candidate?

Mr. McCarley said that's a fair comment, Mr. Driggs.

**Councilmember Winston** said Mr. McCarley, did you have an objective way of scoring how you made certain moves?

Mr. McCarley said I had a subjective way of scoring. The objective way was to make sure that all of them were within the constitutionally required variants from the ideal District size. That's objective. The rest of it is subjective. It's looking at neighborhoods, at racial data, at ethnicity. For example, District 5 has a very high population of varied ethnic populations. When you look at Asian, Hispanic, and other, District 5 has a very distinctive international flavor. We viewed that as a community of interest, but that's a subjective determination. But I tried to look at neighborhoods, ethnicity, race, income levels, and frankly one of the other issues for the community of interest is partisan. Your criteria did not prohibit us from looking at partisan data and we did. Partisan data would show you that the voters in Districts 6 and 7 have a stronger percentage of Republican registration than any of the other five. All of the other five Districts are more than 50% Democratic registration. Districts 6 and 7 are in the low 30%. Right around 30-31%. But that's the highest that Republican registration gets in any other District it doesn't approach that.

Mr. Winston said when people elect their representatives, the work that we do here around the dais and on the City Council is mostly about distributions of municipal services and how tax dollars are spent. For instance, over the next 10 years, we are going to be talking a lot about how transportation dollars are spent. Each District Representative should probably be engaging their constituents within that geography about municipal transportation, planning, and project execution. I didn't hear you mention much about actual municipal services and how neighbors and neighborhoods interact with those. Can you tell us a little bit about how you kind of consider those municipal issues as it relates to communities of interest and how our City is divided amongst District lines in those regards?

Mr. McCarley said yes sir, I think what you are asking is did I look at transportation corridors or major defining characteristics.

Mr. Winston said all of the work that we do. We deal with public safety, sidewalks, roads, public transportation, the digital divide, environment. All of these things make up the majority of our work and what we actually interact with our constituents about. Not necessarily just about race or the Republican party and the Democratic party don't really have municipal service platforms that we follow for instance. We might be Republicans or Democrats but there's no political position when it comes to necessarily roads and infrastructure. But that is the work that we do. That is why they elect us. So, how do those, our job, and our interaction with our constituents around that job actually relate to the way lines are drawn?

Mr. McCarley said for the specifics that you listed; I did not consider most of those as driving characteristics for the community of interest. I did consider what are the defining characteristics of each of the Districts if they have one. For example, District 5 is probably noted its international population. So, I paid attention to the demographic statistics for

Hispanics, Asians, and other populations. District 4 is probably noted for the presents of the University and the impacts that the University has had on the growth patterns there. District 1 is probably noted for its older urban neighborhoods and the Uptown area. So, yes, I understood that there were some defining characteristics that should be looked at, but a community of interest in the case law at least doesn't focus on municipal services as much as it does the characteristics of the people who are living there.

Mr. Winston said would you say that the shapes of our District lines have changed much since they were first adopted, I believe it was, in 1979?

Mr. McCarley said I can't go back any further than 1995, but since 1995 which is when I first was involved with redistricting work for the City as your City Attorney, they have looked roughly like this. The biggest changes have probably been on Districts 2 and 4 because of their growth and the difficulty of moving population into or out of those two Districts. But they probably look a little bit more different today than they used to.

Mr. Winston said the reason why Districts were created was, I think you might have mentioned, was because historically before that we were a totally at-large system and those City Councilmembers were usually selected by a slate chosen by the Chamber of Commerce. Organizations and voters within the community like the Black Political Caucus and other entities really worked hard to get black representation and representation from different geographies around town and I just wonder if these existing Districts and the recommendations you provided are still solving for a problem from 1979 and not the problems of this City that we have now.

Mayor Lyles said Mr. McCarley would it be okay for him to ruminate on that because we've got 17 people that are signed up at six o'clock and it's 6:30 p.m. Mr. Winston?

Mr. Winston said sure.

Mayor Lyles said Ms. Ajmera also had some questions. Ms. Ajmera would it be possible if I recognize you immediately after the hearing or would you have some questions that help frame the hearing?

**Councilmember Ajmera** said I think it will help frame the hearing. The question I have that was already addressed at our Committee meeting. I just want to make sure that we have many speakers in the room, so, they hear directly from our consultant. So, Mr. McCarley would you please share with everyone waiting for each one these draft plans based on the criteria that's been adopted by the committee?

Mr. McCarley said the criteria is that the basic criteria of equal population, reasonably compact contiguous, the subjective criteria is looking at communities of interest being grouped together where possible. We did follow precinct boundaries in everyone. We did consider race in looking at the population shifts into and out of Districts 3, 2, and 4. I think we landed in a very positive place for those three Districts based on the racial population

in them. Then we tried to size for growth but frankly, that was the hardest criteria to be met and I apologize, but we were not able to do that very well without sacrificing other criteria that I viewed as more important. Then the last one is, we did avoid a contest between any incumbents from my knowledge.

Ms. Ajmera said so do you have a specific rating number for each one of these maps?

Mr. McCarley said I did do a scoring sheet. I don't have it in front of me. I scored Map A very low as Mr. Driggs asked, it's basically for informational purposes. So, in Plan A all of them meet the required criteria. In Plan A I viewed that on a one to ten scale as having only a five for meeting communities of interest because it was not a criterion that we looked at, at all. Then size for future growth got a two because it really doesn't take into any account future growth and leaves one of the Districts that's expected to grow right at the maximum number. So, Plan A score very low. Plan B meets all of the required criteria and I did believe that on the communities of interest criteria it warranted an eight. Size for future growth I gave it a six. Barely above average because again, it was just very difficult to do that in any plan. I did not turn in a scoring sheet for Plan B 1, but I can tell you that in my view it is slightly better than Plan B. So, I would give it an 8.5 on communities of interest because it realigns those two those two precincts that ought to be in District 5 along with the Eastland Mall area redevelopment and the Central Avenue Corridor and its size for growth at the same way Plan B is, so I gave it a six. The last one is Plan C that meets all of the required criteria. I scored it a seven for communities of interest and scored it a five. A little bit lower for sizing for future growth because it does not do that well. Thank you Mr. Driggs for the reminders.

Ms. Ajmera said thank you.

Mayor Lyles said now we will begin the public hearing Mr. McCarley. She declared the public hearing open and said we are going to come back, and the Council will have a full round. We will go completely around, but I think it would be good to hear from the community and then be able to integrate those thoughts and the question that we may have. They may generate even more questions.

**Charlene Henderson, 6814 Hidden Forrest Drive** said I am the Precinct Chair of 82 and I just want to say by beginning the Voters Right Act of 65 and 68 define a Map A as the only redistricting map that does not result in a denial or dilution of the voting strengths of precinct 42 and 82. Pursuant to section five of the Voting Rights Act did the City submit the proposed redistricting map to the Department of Justice who obtained a preclearance. There is no possible way Map B and C produce racially discriminatory effects in relation to the Hidden Valley's all-black voting record in the last ten census periods. Voter Rights Act map requirements are mandatory, and the City must guarantee that Hidden Valley, a community of color, has the power to elect the candidate of color. Mr. McCarley preferred Map B and C considering only one factor according to his statement at that time to Councilman Graham the numbers relate to the demographics. Mr. McCarley preferred maps are the definition of a denial in dilution. Maps B and C are as racially polarized as



they are unconstitutional. The Voting Rights Act I mentioned are related entirely to racial fairness. The City has a legal obligation under the federal law to protect its citizens from denial and dilution of our Voting Rights Act. District 1, all-white voting record exempts it from being a community of interest. Map A is the only map that protects and preserves Hidden Valley's all-black voting record. Map A is the only map that guarantees the federally protected constitutional right to vote with racial fairness. I thank you for your time and your consideration. Hidden Valley wants to stay where it's at because there is no common interest in where it is proposed to be moved. Thank you.

**Marjorie Parker, 5131 Springview Road** said good evening and thank you for the opportunity. I am a retiree of the City of Charlotte. I have lived in Hidden Valley for all most 50 years. I'm going to give you the five reasons and if I have time I will elaborate on those reasons after. Number one, Hidden Valley is struggling with issues. Number two, we are bearing the burden of the redistricting of District 4. Number three, data is not people. Number four, the importance of your first and second orders are not followed. Number five, why were 42 and 82 really chosen out of District 4?

Number one, Sugar Creek caught in traffic, like of amenities, grocery stores, restaurants, other than fast food are needed and these are the problems. Number two excessive growth is in the northern end of the District. Number three, data is not people. We will go from two representatives in the race to zero representatives that we know. We have over 170 petitions signed in just one day on people who share the same interest with us. Your importance of the first and second order is not followed. Precincts with similar interests. People with similar interests cause contrasting groups which equal polarization. The race is not the overwhelming factor. Forty-two, 82, and 26 is this race? We recommend Map A and to leave 42 and 82 and District 4. Thank you for your time.

**Cedric Dean, 5502 McChesney Drive** I have another 200 residences [inaudible]. The Voting Rights Act of 65 and 68 set forth VRA (The Victim Rights Amendment) District. Section two of the 65 Act prohibits any voting standard practice or procedure, including redistricting that results in denial and delusions of minority voting strength. Section five requires the City to submit any redistricting map to the Department of Justice to obtain preclearance. The City must demonstrate that the map does not have a racially discriminatory effect like Maps B and C. Maps B and C are regressive. Not progressive for Hidden Valley voting preference. In fact, Map A is the only map that does not have a racially discriminatory purpose. Map A protects Hidden Valley and its voting strength. The U.S. Supreme Court laid out a formal of Mr. McCarley for determining which communities need VRA districts. VRA district Mr. McCarley, Madam Mayor, and City Council must ensure that communities of color have the power to elect their preferred candidates. The formula considers most factors other than the number, but the City is legally required to consider racial polarization in voting. Voting is polarized when the political preferences of District 1, all white in precincts 82, 42, and 26 all black differ solely by race. I'm going to finish this right here by saying this right here, District 1 has voted for all white candidates. District 4 has voted for all black candidates. We could never be a community of interest with District 1. Thank you.

**Blanche Penn, 2207 Century Oaks Lane** said this is Doctor Blanche Penn and as a person that has lived in a community for years I don't get on anything unless I do some research myself. Right now, I am out of town focusing on housing and everybody knows that Lake Arbor, the soul circus, and now the map. I don't get involved unless I know that something needs to stay. As we already know and the speakers before me have shared with **Due to technical difficulties, there was no audio of this portion of the meeting.**

**Charles Robinson, Mount Kisco Drive** said thank you for allowing me to speak. Tonight, you have to listen to our community. It is good that you guys see our faces. You just see a few because a lot of my community is aging. We seldom see the representation sitting around this dais and very seldom see at-large in the community. So, you are about to make a decision. We are saying no and every time we say no, there is a fight. At this point, there is another lawsuit potentially coming because you didn't listen when we said housing. We said housing because of density didn't make sense to us because we know you hadn't addressed infrastructure. We can't even get out of the neighborhood, but you are thinking density. So, that means that you are not listening. Again, I am the Vice President of the Hidden Valley Association. This is my community. We are saying no. Mr. Dean and Ms. Charlene have absolutely given you the definition of what's supposed to be according to the law. So, we ask you tonight to listen to the law and if you don't listen to the law we are going to take you to court and have another fight. That's is something that neither of us wants. We understand that B1, you haven't had enough time to even look into it, but you are making a decision for my community. That's unacceptable at this point. Put it on hold, go back through it. It's going to cost you a few dollars. You got it and make sure that we have the representation that we want in this community. We are working hard in Hidden Valley. A community that is going through a transition and we are the last standing in Charlotte. You don't see too many black communities and so when you talk about communities of interest who are you talking about? We are one of the last ones. I expect each one of you to that sitting around the dais to make a decision based on what you know. Not how you feel. Not what you think. An informed decision and then you should have come and asked us before you decided to make a move in our community. Again, another level of disrespect we often experience. It's time out. So, vote no. Leave us in A.

**Iola Gardner, 825 White Plains Road** said I'm in Hidden Valley and I have been there over 20 years. I just have a few questions because I am totally in agreement that we do not need to move out of our District. I wanted to know what would be the advantage or the value of moving to District 1? That would be one of my questions. Are services going to improve? Are they going to help the community have more walking areas, more grocery stores, more things that we could use as a community? So, that would be some of my questions like you were saying in reference to things that's going to improve our community. Also, I did have another question. What's the percentage because he mentioned District 4 had a percentage of 43.9 black voters. What was District 1 percentage of black voters? That would be one of my questions too. Thank you.

Mayor Lyles said we will get those questions addressed and get them out so that they are online and public for everyone to read. We won't be able to do that tonight specifically.

Ms. Gardner said oh, I thought he had a list that he was reading from.

Mayor Lyles said we may have a list, but I think in order to get that when we have a number of items on our agenda. So, we will hear the public hearing. We will get it to you as soon as possible. It will be on a public site so that everyone can see it.

Ms. Garner said alright, well we don't want to move to District 1.

**Dorothy Brown, 3238 Mint leaf Drive** said I come before you as Chairperson of precinct 26, which is currently in District 4. I want to first remind you that as a representative of the people, you should put our, the people's best interest ahead of partisanship and personal gain. Section two of the Voting Rights Act of 1965 makes it unconstitutional to racially discriminate against communities of interest and section five gives precinct 26 procedural due process rights. The redistricting Maps of B and C do not reflect the voting preference of precinct 26. Map B moves precincts one, eight, and 18, and 35 from District 1 to District 6. Then it moves precincts 26, 42, and 82 from District 4 to District 1. Map C moves precinct 54 from District 2 to District 1 and moves precinct 26 from District 4 to District 2. These maps are clear gerrymandering, as precinct 26 has historically voted for African American representation and District 1 has historically voted for white candidates. Why are some precincts being moved in and out of Districts if that's not gerrymandering? Voter suppression is voter suppression regardless of what it is called. I need to interject here since he mentioned the percentages. Whereas our percentage might stay. It's not our percentages staying at 43%. It's you are moving us to District 1 where we won't get the same representation that we have in District 4. The constitution guarantees every precinct 26 members the power to elect their preferred representative including one of color. The Voting Rights Act are more important than the numbers related to a demographical increase in District 4. The Redistricting Committee obviously agrees that numbers are not as important since District 7 is only mentioned once in Map C and not at all in Maps A and B.

**Kendrick Cunningham, 2345 Ashley Road** said I am here today to represent precincts 23, 24, and 81. I'd just like to bring to your attention specifically Councilwoman Watlington's attention because you have been having Town Halls in these precincts. We do have an invested interest in you. We would like to keep you as our representative. We feel that you owe it to us to protect this community of interest and keep it whole in Map A. Maps B, B1, and C it's splitting a community interest which is the West Boulevard, Clinton Park area, Wilkinson Boulevard communities, Camp Green, Enderly Park, Ashley Park, and all of the Freedom communities. We all have a coalition together. We organize together. We receive funding together and having to go to two representatives that's proposed in Map B, B1, and C, that makes it more complicated for us to create the community that we are wishing to achieve. Councilwoman Watlington, I know that because I've seen you at our events. So, I just have a simple ask to not split any

community's interest in the middle of an election delay. These are working family communities. I made 55 calls in the historic southwest corridor and 0% knew about redistricting and 0% knew about this community of interest being split in half. That is an issue that will complicate elections. So, let's do what's right for working-family communities and vote for Map A.

**Harry Taylor, 1010 Brandon Circle** said I spoke before Council of this body on the 28<sup>th</sup> of June as a representative of the League of Women Voters. That day we asked you to consider executing a non-binding resolution that would conduct the 2021 redistricting process in an open, fair, and nonpartisan fashion. It's my belief that the process we ask you to follow has been followed and we thank you for that. Furthermore, you didn't make the maps and you're not going to make the maps. You've had contracted out to have somebody else make the maps. So, we appreciate that. I'm here today to talk about something else in this regard and it's something that I don't know whether can be accomplished before 2031. That's the subject of at-large voting districts. Prior to 1917, all voting Districts were ward elections. In 1917 a bunch of potentially white businessmen got together and decided they wanted to diminish the power of the black vote. They instituted a full slate of at-large Districts. The county circumstances stayed that way until the 70's when a bunch of neighborhood groups got together to petition for a referendum vote, which passed and changed the configuration to four at-large Districts and the seven Districts we have today. With the considerable attacks on democracy across the State of North Carolina and across the country, it is time to end at-large voting Districts. We should have 11 Districts in the City Council as I said though that probably can't happen until the next round of redistricting, is something that we need as a City to consider and put at-large District to bed for once and for all. Thanks for listening.

**Grover Flood, 1024 Georgetown Drive** said I'm an old veteran. I am a native Charlottean. I have lived in Hidden Valley for 36 years. So, I am a relative newcomer. Our distinguished guest and everybody representing the Valley. We have generations in the Valley. It's one of the last standing neighborhoods left in Charlotte. We are on the hollow ground right here at this Government Center. Some of it that's been in Charlotte longer than me and my 63 years probably remember Brooklyn. This country was built on taxation without representation. Our representation happen three or four days ago when we found out about this meeting. Ain't no way we can put everything together in three days. Oh, you have a meeting a three o, clock on Monday 18<sup>th</sup>. You got to be there at three o'clock. Then they tell us six o'clock. Then they tell us two minutes to say what we got to say. I heard the young man over on this podium talk about, he used four words. He talks black and white. He talked Democrat and he also talked about Republican. I don't know what all of that's going, but I do want to know one thing. That's my family right here behind me, what benefit is it for us? We already know about two g words. I know my minutes are up Mayor. I'm almost up. The two words start with g. Gentrification. So, whatever neighborhoods are left, and I got a list of neighborhoods on my paper. When we talk about black and white we already know what time that is. So, forget about that. Hidden Valley is almost gone. We are on the top of the list for the next gentrification. We get that. What benefits us from going from District 4 to District 1? The other g-word, don't ring the buzzer

yet Mayor, was gerrymandering. You're stacking the deck. Gerrymandering, meaning you all poster yourselves and stack the debt and we don't have any representation. Thank yall. I'm getting ready to go home.

**Breeana White, 313 East Cama Street** said I'm a Charlotte native. Born and raised here in the Derita and Hidden Valley area. I'm currently residing in the southwest I-77 corridor after being bonded for about five years. I'm here doing my degree in social work. I'm speaking today because of a recent assignment we have in class and I just saw how it could be translated in the real world here. It's one thing to write about social issues, but it's a whole other thing to actually speak up about them. Especially when you see how [inaudible] they are. In my class I was required to look outside my door and see what type of issues were going on and I saw affordable food deserts. I saw gentrification and so many other things. Now, I see that we have these threats to the community I'm in now. It's the community that I grew up in with the threat of gerrymandering. This issue is so much bigger than Democratic or Republican than parties. The issue of redistricting is about making sure communities have a representative who truly represents the members of the communities and can advocate on behalf on the issues that their facing. Like all of these people mentioned. In undergrad, we learned about gerrymandering and now I've returned home and seen it in my own community. Splitting the voice of the community is not only unethical but let us also not ignore that these are historical black communities. The historically black community that my grandmother grew up in here in Charlotte. It's already long gone. We don't want the ones that we have to keep disappearing as well. We want to make sure that we are drawing districts that afford the community the opportunity to elect the representative of our choice. When communities are divided, our voting power is diluted. It makes it difficult to advocate for our true needs. While I was a college student in Greensboro I saw this. The city had been so badly gerrymandered that the country's largest HBCU was **Due to technical difficulties, there was no audio of this [for this portion of the] meeting.** Charlotte as well. We just want to keep communities together. We want to say no to Maps B and C. We want to make sure that we are being truly represented as groups of people.

The following persons submitted written comments regarding this item pursuant to S.L. 2020-3, SB 704. To review comments in their entirety, contact the City Clerk's Office.

**Chantel Otto/Residence of Hidden Valley, [otto.chantel@gmail.com](mailto:otto.chantel@gmail.com)**

Mayor Lyles, I just want to say that the Ad Hoc Committee of the Council will meet on Wednesday, October 20<sup>th</sup> at 3:30 p.m. and are scheduled to meet for an hour and will be able to be responsive to this. Now, I believe the Councilmembers have the opportunity to also ask any question that you would like to have the Committee understand and get to.

**Councilmember Johnson** said I want to thank the residences of Hidden Valley for coming out and sharing your concerns. I really want to thank you. I had the pleasure of meeting with the residences in person last week for a meeting that I wasn't invited to, but I'm happy I was able to show up. I do want to address just a couple of things. As far as

not being advised. I personally reached out to your community leaders at least three of them are here. Ms. Parker, thanks for coming and Charles Robinson. I want to thank you guys for coming out again. So, what we are going to do, we listened, and we are here. We hear you and we feel you and we want to do what is best for this City and District 4 and Hidden Valley. So, I've spoken to Mr. Graham and there will be another community listening session, we are hoping. We're going to set up with the BPC and the community will be invited. So, I will be sure to reach out to you all for that event. Also, with your concern about the three o'clock starts time, I heard you. I came back to the Mayor and Council and we moved the time. So, I understand how you feel, but I can personally say I did reach out. So, there was no nefarious intention for Hidden Valley. So, I do want to say those things. Mr. McCarley, can I ask a few questions to follow up on some of the community comments?

Mr. McCarley said yes, ma'am.

Ms. Johnson said can you please define gerrymandering?

Mr. McCarley said gerrymandering is the process of manipulating voting district boundaries to favor or disfavor a particular party candidate or group.

Ms. Johnson said could any of these maps be considered gerrymandering and if so, why, or why not?

Mr. McCarley said I will say that none of them were designed that way. So, there was no intent to do that. The one that would cause me some concern is Map A because moving precinct 77 into District 6 has the potential for disrupting the partisan balance in that District.

Ms. Johnson said thank you. How many precincts, let's say B1, how many precincts are being moved?

Mr. McCarley said in B1, we moved 16 precincts.

Ms. Johnson said how many of those are predominately black?

Mr. McCarley said I haven't counted, but I will guess for you that most of the ones being moved in all of the maps are heavily black precincts. Remember that we're moving population from Districts 3, 2, and 4. Which are the ones that have a 40 percent black population into the Districts that have relatively white populations, Districts 1, 5, and 6. So, just by logic most of the precincts that are going to get moved will have a substantial black population in them. So, for example in Map A, the black population in precinct 77 there are 441 white people, 2783 black people, 2480 Hispanics. So, moving that population into District 6 is basically moving the same number of people of a minority, ethnicity, and race as what we are moving with some of the others. It's impossible to move

that population from Districts 3, 2, and 5 into Districts 1, 5, and 6 without moving some precincts that have a substantial black population in them.

Ms. Johnson said why was Hidden Valley selected?

Mr. McCarley said basically because it is on the edge. Can I have Map B1 up on the screen?

District 4 is the yellow district in the top right portion of the city map. Basically, in the northeast corner of the City. If you look at that map you'll see that the precincts that border other Districts are relatively large starting in the bottom right-hand corner, 205 is relatively large. You can't move 149 unless you also move 204, because if you move 149, 204 becomes an island, 204 is also sort of the back side of the University. So, what's left is looking at 132, 82, 42, and 26. Twenty-six made some sense because it sort of sticks out and it made some sense to clean up some of the lines. But then when you start moving up to the north and west side, nothing that doesn't touch another District can be moved, because you can't have it not be contiguous to the rest of the District. So, things like 137, 141, 212, 229, 239, 128, 151, 145, 238 if you move 211, and 214 because Ms. Johnson lives there. There just aren't that many choices of what to move to balance the numbers. So, when you look at what's available to be moved, 205 made sense, 42 and 82 I consciously kept together because I knew that was two precincts, it's one neighborhood. So, I consciously kept that together whenever they were moved. It takes a lot of movement to get the population shift that's required to get back into balance. They were picked because they were on the edge and had the right numbers.

Ms. Johnson said so why not one of the precincts at the top?

Mr. McCarley said you can't move the precincts at the top because they wouldn't be contiguous with any other District. They don't connect to District 2 or to 5 and you can't have them as an island. Pieces of the District must be contiguous to some other piece of the District.

Ms. Johnson said then my last question and I was asked this at the community meeting. So, I'd like you to give some information if you have it. Is there an advantage to Hidden Valley being moved to District 1 and if so what would you think it is?

Mr. McCarley said from my point of view as a redistricting attorney, I think there are two. I'm fully aware that when I say this out loud they are not going to agree, but from my point of view, there are two advantages. One is that it increases the black influence in District 1 significantly. The second is that District 1 as I understand it is likely to have an open seat. Which means that the voters in those two precincts will have an impact on an open seat. Here are the numbers from Plan B1 that relate to this issue. The statistics for the increase in the black population in District 1 with that change is a 7.2 increase and a 5% increase in Democratic voters. You look at that compared to the 33% of the black population that it would have had, that there is an increase here from 26.3 to 33.6. Which

means that there is a significant amount of increase of inability to influence their choice of voters. Their choice of elected representatives.

The last thing I want to address about that is that several speakers mentioned that this violates the Voting Rights Act in that it violates the rights of the people in those two precincts. Two quick points. The first several speakers mentioned section five requiring preclearance. The U.S. Supreme Court has struck section five from the Voting Rights Act. It no longer has any validity. The City is not required. No jurisdiction in the country is any longer required to submit their voting changes to the U.S. Justice Department for preclearance. The second thing I would say to you about that issue is that the voting rights of the group are applied to the jurisdiction. Not to a precinct. So, in this case where the black voting percentage in District 4 remains within .9%. Nine-tenths of 1% of any variation we have protected the voting rights of the black population in District 4. That's the measure. It's not one precinct. It's the jurisdiction. If we measured it by every precinct we wouldn't be able to move any precincts.

Ms. Johnson said thank you that's all of the questions I have, Mayor.

**Councilmember Watlington** said many of the questions that I had noted were also asked by the residence. I heard Madam Mayor say that they will be noted publicly. So, I will skip those in particular. Thank you for clarifying the legislation and what's in effect in explaining how it is actually measured. Can you just one more time for me to repeat what is the demographic change for black residence in District 1 if Maps B, B1, and C were adopted?

Mr. McCarley said in District 1 or District 4?

Ms. Watlington said district one. You said that they were going to go from twenty some odd percent to thirty some odd percent.

Mr. McCarley said the one that changes the demographics in District 1 are Map B and B1. They change the demographics from the current is 26.3% black in District 1 with a 7.2% increase. It pops up to 33.6% black population in District 1 and 50.9% Democrat. So, it strengthens the Democratic whole in that District. Also, 33% gives the black voters a significant influence in picking the representative from District 1. More influence than they have ever had in the past.

Ms. Watlington said particularly in an open race when there is likely to be more than one or two candidates?

Mr. McCarley said where whatever candidates are in the race are not running against an incumbent, yes that's an advantage.

Ms. Watlington said thank you for that. The other two things I wanted to say are not so much questions, but I just wanted to comment. So, first of all, as the District 3



Representatives, we've got the largest District. Somebody was going to be moved out of our District in an effort to do this work. I just want to say it has been a pleasure to represent every single resident in District 3, and I don't want to see anybody go. I've enjoyed going to neighborhood meetings from the southwest area to Parkview, to Enderly Park, to historic Camp Green, every single one of those neighborhoods are alive and they are doing the work. So, I just tip my hat to each and every one of you, and regardless of where you sit in the District, please know that you can always call as long as I'm sitting in this seat. Because of that, it is important to me that when you talk about Plan A, Mac and you mentioned that precincts 77 and some of the southwest area neighborhoods are significantly different than the neighborhoods that are in District 6, those are the kinds of things that I'm looking at. I want to make sure that for the very things that Hidden Valley is talking about right now, that every single precinct that is impacted coming out of District 3 has the best chance to continue to get the representation that reflects what they want to do. So, that's the view that I am taking.

The last thing I wanted to say is that I know that it is not in scope for this particular redistricting exercise, but what I'm hearing here is I've heard folks speak about potentially abolishing citywide reps or At-Large Reps. We've had many conversations about what else could we be doing to ensure that voters feel like they are getting the representation that they need. I am not opposed at all to an eighth District and a future redistricting exercise. That is something that I hope that we are able to consider as we move forward as we look at some of the other recommendations from the Governance Committee. Again, out of scope for this section, but it is certainly something that is worth a conversation going forward. That's all. Thank you.

Mr. McCarley said Ms. Watlington, just to respond to one of the very specific comments you made about precinct 77. It's almost 50/50 Hispanic and black. If you move it into District 6 as Map A does, District 6 is 66% white, 13% black.

Ms. Watlington said I'm aware. Thank you, sir. I appreciate it.

Ms. Eiselt said Mac, this is for you or Rebecca. I know you gave us this info at one point, but Rebecca do you have data on how many people are in precinct 77 versus how many people are in at least 42 and 82? It seems based on all of the maps that it's either-or. It's either going to be 77 or it's going to be 42, 82, maybe 26. Is that right?

Mr. McCarley said no ma'am. The only criteria that Map A really meets is to get all of the Districts under 5%. It doesn't meet any of the other criteria in any significant way. So, as Mr. Driggs said, isn't informational basically. The answer is yes. I didn't move 77 in any other map because I don't think it makes any sense to put 77 into District 6.

Ms. Eiselt said oh okay, that's really interesting to know because looking at A, B, B1, and C, it looks like it's either-or.

Mr. McCarley said 77 only moves in one of those maps and that's Map A. It's a very large precinct. The numbers are high as they are. The other one moved in that map is, I

believed it's 99 at the top of that area. It moves it into District 1. It's also a very large precinct for population, but I didn't move either of those precincts in any other map. There were only done to see what's the least you could do and still be within the constitutional requirements.

Ms. Eiselt said I see. Okay, thank you.

**Councilmember Bokhari** said I was just going to mention the gentleman that spoke on the potentially 11 Districts. I think that is a phenomenal idea. I think that the 125,000 people that we represent on the District level around this table is larger than most cities in North Carolina. It's far too many and I don't buy into the there's four people that are strategic-minded and the rest of us just have workload and that's it's separated. We all do everything. There's no reason for us to not break that down into 11 Districts and then we can be much more focused on how we break those out. Make sure we are not gerrymandering. I think it makes all of the sense in the world. We've been explained why that is not possible in this go-round, but I think right after this is done, it would make a lot of sense for us to strategically focus on that. I would love for us to even talk about it a little bit at our Strategic Planning Retreat if we have that opportunity. So, I just wanted to mention that. Just for our first time back in the Chamber, it's great to see folks engaging again. We are so grateful that you came out to speak with us. Particularly those running for office this year. We appreciate you guys so much. Thank you.

Mayor Lyles said before we go Mr. Bokhari suggest that we begin to discuss this. I agree that there needs to be a discussion, but I just don't want to get out in front of our people. I think that's the way the people feel about this now. Sometimes when we begin these discussions without having some information about why and how, and what people feel it's just something that I think we ought to be very careful and especially as we're coming up upon the changes that we have to make after the Retreat. Just trying to make sure that we keep the community in front of us on something like this that is so important about voting.

Mr. Graham said let me thank the residences for being here today and voicing your concerns and input on this public process. Let me thank the Mayor for allowing me to Chair it and my Committee members for working alongside me. I think we all have listened carefully tonight to what we've heard here. Also, the comments from our colleagues as well as Mr. McCarley. I think it should be noted though that when we received the data back from the Department of Commerce, it demonstrated a couple of things that I think our community needs to know. One that North Carolina continues to be one of the fastest growing states in the country. It's growing in leaps and bounds. Charlotte is only one of 14 cities that has grown by 100,000 residence over the last 10 years. So, we are growing significantly. When you look at Charlotte's growth it could be found in Districts 2, 3, 4, and 7. There's no doubt about that as well. Mr. McCarley said that we're 875,000 in Charlotte proper. Thirty-five percent of our population now is African American, 14% Hispanic and Latino, 48% Caucasian. I say all of that to say this, the job of the Committee in conjunction with the consulting was literally to move over 30,000 voters out of Districts 2, 3, and 4.

Many of those residences look like me and you. Many of those residences are represented by African American Councilmembers in Districts 2, 3, and 4. There is no intention to disenfranchise anyone. There's no intention to suppress anyone's vote. It is simply how do we pull voters from District 3 into 2, from Districts 2 into District 4, from Districts 4 into Districts 1, and 5 and 6. District 7 remain unchanged. So, I hope that those who are viewing at home and those who are here, understand and know that we are trying to be honest brokers. We are trying to; I believe leadership means that you tell the community some things they may not want to hear. I think it is responsible to tell them the truth. There will be residence in District 2 who will be surprised that they are moving out of District 2. There will be black communities in District 2 that will be surprised that there moving. Black communities in District 3, black communities in District 4. That's where the growth is, and we got to move those borders out into the other Districts. So, I hope that you will stay engaged. Our next meeting is this coming Wednesday as the Mayor indicated. We have four possible scenarios in front of us. We will take what we heard into consideration. For those who want to add additional comments, you can go and look at all of the maps at [redistricting@charlottenc.gov](mailto:redistricting@charlottenc.gov). You can email us rather any additional questions, comments, and we will do our best to be responsive to them. If you want additional information about the maps you can find them at [cltgov.me/redistricting](http://cltgov.me/redistricting). I've represented Hidden Valley as a Councilmember, as a State Senator for over 14 years. I've stood on 42 and 82 asking for votes. When I was not asking for votes I was working to solve issues like potholes and sidewalks, model neighborhood guidelines. The Mayor may be familiar with that.

Mayor Lyles said I remember that.

Mr. Graham said working on North Tryon Street. So, there's no one in that room trying to do anything to impact negatively Hidden Valley or any other majority, minority district. Last point and I will yield. No matter what we do in any of the maps, District 2, District 3, and District 4 is posed to elect African American leadership. A smart candidate in District 1 in an open seat left the ability to form coalitions can win. That's the political side of this thing, right. This is inherently political. I'm just being very transparent, but the numbers are what they are, which I go back to the main point. We got to move 30,00 voters. Thank you Madam Mayor.

**Councilmember Phipps** said the Census Department is about to embark on a reconciliation of the last census. They are going door to door trying to figure out the imbalance of the current census numbers. They already project a significant undercount of African American residence and other residences of color. So, I would hope that when they do conduct this survey or review of the census data that members will be able to partake of that. Also, it has been said here tonight that there has been a significant effort to gather petition names from various residence throughout the Hidden Valley community. I would ask that those names be submitted to our Clerk. So, that maybe we could get copies of those too. So, I wanted to acknowledge the work that has been done by the community to collect those signatures.

Mayor Lyles said to have a conversation about how you all want to do it. We are open for business tomorrow. So, certainly able to get it. They're going to meet on Wednesday, but if we need to return them to you, we can. That concludes the public hearing. I think we have had a great conversation and we've listened carefully. I look forward to the report from the AD Hoc Committee and again, please review it, watch is on the Government Channel or Facebook Live or one of the other options that we have for it. Before we get you to leave I would just like to read the statement.

Charlotte Water had a significant water main break near Remount and Barringer Drive. Crews are isolating the valves and customers are experiencing an interruption in service and low pressure. They are working on it because they are trying to isolate the water main break. Service has started to return to some area that lost service, but what we really need to ask you to do is please do not call 911 because you have a water outage. We are very much aware. There is a lot of opportunities to view it on Facebook and Twitter. I have never seen anything go that high in Charlotte. It's like something that has happened but using 911 makes is very difficult for us.

The meeting was recessed at 7:35 p.m. for a break and reconvened at 7:45 p.m.

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### HEARINGS (CONTINUED)

**ITEM NO. 28: HEARING ON PETITION NO. 2021-033 BY CHARLOTTE PIPE & FOUNDRY CO. FOR A CHANGE IN ZONING FOR APPROXIMATELY 55 ACRES LOCATED ALONG THE NORTH AND SOUTH SIDE OF JOHN BELK FREEWAY, EAST OF INTERSTATE 77, AND NORTHWEST OF SOUTH MINT STREET FROM MUDD-O (MIXED-USE DEVELOPMENT, OPTIONAL) I-2 (GENERAL INDUSTRIAL), AND I-2 (CD) (GENERAL INDUSTRIAL, CONDITIONAL) TO UMUD-O (UPTOWN MIXED USE, OPTIONAL), WITH 5-YEAR VESTED RIGHTS.**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said that's 55 acres that is split between the John Belk Freeway on both the north and south side, east of Interstate 77, South Mint Street. Caddy corner to the stadium uptown. The current zoning in MUDD-O. We also have industrial, I-2, and also I-2 conditional zoning on the site. The purposed zoning is to take all the parcels involved and rezone those to UMUD optional with five-year vested rights. This property is governed by several district plans. The West Morehead Corridor Vision and concept Plan for 2001 calls for mixed-use. The Central District Plan from 1993. It does call for some industrial uses that's I think just a holdover from what was obviously the existing use on the site. Then of course the Center 2020 Vision Plan recommends the creation of mixed-use neighborhoods near transit stations. The proposal itself as mentioned is to really allow all uses permitted in UMUD between the two development areas A and B. There's an optional provision related to street frontages for I-77 and 277. Also, there is

things like temporary special event parking to be allowed as a principal use throughout the year as well as some signage provisions that are being continually refined. Also, there's a temporary NC-DOT interchange for a no-build zone. As well as transportation improvements that will be laid out in two phases. All are tied to the different development entitlements that could be developed on the site. There is also a reservation and dedication of CATS right away for the conceptual Light Rail Corridor. You can see that on the screen as that dotted blue line. That is a conceptual corridor as adopted by the new alignment for the Silver Line.

The staff does recommend approval of this petition. We do have some outstanding issues related to transportation and site and building design to continue to work through. It's consistent with most of the plans that we had mentioned early. However, it is consistent with that old district plan from 93 recommending industrial uses for those parcels, south of 277 where the existing foundry is. With that, we'll turn it over to the project team and we will take any questions after their presentation.

**Collin Brown, 1420 E. 7th Street, Suite 100** said on behalf of the Pipe and Foundry team, we have coordinated our time. We have the entire team here if you have a question. As you all know we have to submit our presentation before you see Dave's and they have had it pretty well covered. I think most of you have actually had an opportunity to come out and stand on the site and look at it. Literally in the shadow of uptown and really the gateway to our City from the Airport side of town. So, it's an exciting parcel. Charlotte Pipe and Foundry has been operating on this property for over 100 years. We think this is a nice evolution of the site. It will certainly be legacy for the Charlotte Pipe and Foundry team. As Dave had mentioned this is in line with a [inaudible] of our new plans. I think you've probably heard Ms. Dodson talk about plans for this future district in this area and certainly, we just see this as a component, as this area of the City and we would say Center City continues to evolve. Really getting high marks for compliance for the new 2040 Plan. Unsurprisingly we think this 55 acre so centrally located to employment and transit does not make sense for heavy industrial uses, which is what is allowed now. So, we think this then proposal matches up very nicely when the 2040 Plan and the new 2040 Plan Map which labels this as a regional activity center.

As Dave mentioned we've got great access to uptown, a network of streets, and the proposed Silver Line Corridor. As a part of this process, we've been hosting community meetings since early in the year. We started out with informal meetings with the adjacent neighborhoods, Third Ward, Westly Heights, Wilmore neighborhood. I think all of them are excited about this coming, evolving into an active, urban area. One of the real fruits of that conversation was working with CATS and realign the Silver Line to follow the Norfolk/Southern corridor. So, we continue working with them. As Dave mentioned when we started this we were proposing a straight-up UMUD zoning. About halfway through we converted to conditional zoning so that we could address some long-term transportation goals. We have spent the last several months working with CATS, the Charlotte Department of Transportation, and the North Carolina Department of Transportation on

including some conditions in here that will set us up to be successful long-term with this property. With that, I am happy to answer any questions you might have.

**Councilmember Eiselt** said I just have a question. I should have asked this on the one we had earlier that was 50 acres. With it being UMUD, it doesn't guarantee us or assure us that there will be any open space does it?

Mr. Brown said no, it would have to meet the requirements of the UMUD ordinance. This is a very urban area, Councilmember Eiselt. So, similar to what you see in uptown where it is some urban open spaces, but not large expansive of open space would be required.

Ms. Eiselt said so once we do the rezoning we don't really have an opportunity to negotiate with a developer that we'd like a pocket park or anything like that?

Mr. Brown said well we've had a lot of conversations with you and your colleague about this. [inaudible] points is well there's some things we'd love to see here. We do believe Charlotte Pipe and Foundry uniquely is not a developer. They are a property owner. So, what we are trying to do is set up this zoning to allow a wide variety of future development types. We do think in our conversation with the City, the staff has been consistent with this that with a project like this it is very likely that there will be further negotiations with the City, potentially some public/private partnerships that would be required to work together for infrastructure and other things related to this. So, we think, that there is probably another bite of the apple following the rezoning process.

Ms. Eiselt said yes, we have had a lot of conversations, but it just really occurred to me that when we do something like this proactively, when I said developer I mean a future developer, so not knowing who would come in and develop it, we lose the ability to say how does this align with our SEAP (Strategic Energy Action Plan) goals, how does it align with any of our goals frankly. So, I don't know how to solve that.

Mr. Pettines said I think that's a good point to bring up. I think there are some challenges not knowing exactly some of the details of what would happen in the different development areas. I think overall maybe there are some conversations we could have about how that would be addressed long-term or are there just language in the plan that we can talk about. Maybe not the location or size but specific about what could potentially be provided. So, I think we can still have some of those conversations. It does kind of run us into that challenge of providing flexibility within the project so it can attract somebody that could come in and we could work with a little bit more in detail to get some of those outcomes versus trying to get it all in place now that may not be the same outcome we get down the road because it may not be the most desirable place for some of those types of location for either pocket parks or larger expanses of green space. So, I think there's still some dialogue we can continue to have, and I think that's a very valid point to bring up. I'm certainly willing to have some of those conversations with the petition team to see how we might be able to solve some of those questions.

Ms. Eiselt said I don't know if you can, but we give away all of our bargaining chips once we agree to just blanket rezoning. We don't know if we will accomplish any of our goals. We just kind of hope for the best and that's not great.

Mayor Lyles said Ms. Eiselt if I recall a year ago or so we talked about how even in a dense environment, how to create open space. I remember trees being planted and hammocks, and open space and creating, it wasn't a pocket park the way that we would have a basketball or half-court basketball, but it was creating amenities. I think it's worth the conversation as you go through this to start discussing how much of the space has to be used for office and development. Also, I would hope that there would be this opportunity for us to talk about the designs that we have seen in the past that really address how to build something urban with amenities that would be first good for our environment, but also just good that people will participate and have spaces to walk outside. If there is anything that we've learned through COVID is to be just inside of a building that is not sufficient for the creativity and the work that I think is being done. So, I would ask the staff to explore those possibilities and see what kind of notes could be addressed and come back to us with ideas around it.

Mr. Pettines said certainly, thank you.

Ms. Eiselt said before we approved the decision, yes.

Mayor Lyles said thank you. That is a key point.

**Councilmember Winston** said I apologize if I missed it, but can you just say what's happening or what's not happening with that little carve-out in development area A?

Mr. Brown said if this is the screen we are looking at now Councilmember Winston, I put this up because as we've heard we mentioned 55 acres, and certainly sounds great to say we have 55 acres. This shows how quickly that 55 acres dissipates as we look at all the potential transportation improvements that may be needed in this area. Mr. Winston, these shaded areas here and here, this is conversations with the Department of North Carolina Transportation about improvements that they may make to 277 and I-77. Essentially all of these zones here we are committing to no-build for a period of at least two years. As the North Carolina Department of Transportation continues to evaluate how these interstates and possibly interchange improvements are made. As you can see opposite the site on this end of the site, we are essentially carving of this side for future dedication for the Silver Line. Then additionally we will have improvements along with Morehead. So, as you can see those 55 acres pretty quickly get down to 30 acres or so with the reservations and future dedications that will be needed for transportation and infrastructure.

Mr. Pettine said is that the piece you were referencing or were you referencing the donut hole?

Mr. Winston said I was referencing the little donut, but it is not part of the rezoning.

Mr. Brown said this is not part of the rezoning. This is owned by a property owner. It would retain its existing zoning.

Mr. Winston said what exists there?

Mr. Brown said I believe that is the United Air Filter Facility. So, that's a facility that has been operating for a number of years.

Mr. Winston said and what is the land use?

Mr. Brown said hazard to say. I don't know if they do manufacturing out there or not. I don't want to speculate.

Mr. Pettine said it's currently zoned I-2 as well. It's like a light manufacturing type facility. So, that's just one of those outliers that haven't been consolidated into a project like this. That will just remain until they are ready.

Mr. Winston said I would wonder how since it is quite the outlier. I've never seen one quite like that. So, what should we be considering there I guess?

Mr. Brown said the property owner is aware of the rezoning process. I think they've met with the staff. So, they are certainly aware of the changes that are going on.

Mr. Pettine said yes, we have discussed the project going on around them and kind of gave them some options to consider about how they want to move forward. We haven't heard of anything of a firm commitment about what they want to do. They are certainly aware of their options. They'd like to I think remain an operation, but I think they also want to weigh how this may change what goes on around them and what their longevity in that spot may be.

**Councilmember Ajmera** said Ms. Eiselt had raised this question of having open space. Is the county involved in this conversation, Mr. Brown?

Mr. Brown said we have not had a conversation with County Parks and Recs specifically. Though I'm sure they have provided comments on the rezoning.

Ms. Ajmera said I'm interested in hearing from the county. I know there are times that we talk about open space and the county already has a plan just like we had with the University where they had acquired over 25 acres close to the rezoning we were discussing last month. I'm not sure what the county's plan is in terms of the parks specifically on this area. So, I would be interested to get feedback from the county so that we know how we can collaborate on the open space. Thank you.



**Councilmember Driggs** said I have a concern as well that I have conveyed to the petitioner about the kind of blank check nature of this. I'm particularly interested in how we transition to the UDO (Unified Development Ordinance) and to our new planning environment. Assuming we approve this with five-year vesting rights, I don't know if this is a legal question or what but are they then grandfathered under the MUD-O development conditions or if their development period extends out for years. What happens after five years? How does that work?

**Terrie Hagler-Gray, Senior Assistant Attorney** said it's not a simple question because by right, by the statutory requirement you get two years vested rights. You can get up to five years if the Council allows it, but some action has to be undertaken in that five years for the vesting period to begin. Otherwise, you do lose it after that five-year period, but if you have CD plans under 160D, there is some additional protection that you get. So, it is probably something that we may be as a Legal Department can give you some more information on. It's kind of complicated.

Mr. Driggs said Mr. Brown how long do you think the entire development under this rezoning will take?

Mr. Brown said I'd hate to speculate Councilmember Driggs, but certainly, Mr. Carmichael tried to answer the same question earlier. Certainly, a multi-year development.

Mr. Driggs said I guess for the moment I would just like clarification as we transition to our UDO about how this rezoning operates at that location. As I've said before I do have a bit of a concern about the blank check. All though I agree with you Mr. Brown, a large site like this is worth more as a big property to a big buyer and it would be in piece meal development for example, and I think that transaction with the big buyer probably does involve the City in the future and give us perhaps the opportunity by virtue of our financial participation in infrastructure and things to weigh in on how it is developed. I think our position in those conversations is weaker if we have already issued the zoning permission. So, that is a concern I have. But if we could get clarification about the transition with the UDO, and how the five-year vested rights work I would appreciate that. Thank you.

Mayor Lyles said I think also if we could just send out to Council how the vested rights are and work legally and may be using some example of when you haven't met the deadline or when have met the deadline and you could see the results of that. I think that would be very helpful for all of us to understand in more detail.

Motion was made by Councilmember Winston, seconded by Councilmember Newton, and carried unanimously to close the hearing.

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**ITEM NO. 29: HEARING ON PETITION NO. 2021-060 BY SRL CENTRAL AVENUE PROPERTIES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.56 ACRES LOCATED AT THE NE CORNER OF THE INTERSECTION OF CENTRAL AVENUE AND MORNINGSIDE DRIVE IN THE PLAZA-MIDWOOD COMMUNITY FROM B-1/B-2 (NEIGHBORHOOD BUSINESS, GENERAL BUSINESS) TO MUDD(O) (MIXED-USE DEVELOPMENT, OPTIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is about 2.5 acres on Central Avenue and Morningside Drive in the Plaza/Midwood Community. It is currently zone B-1/B-2 and the proposed zoning is for MUDD (O). The adopted future land-use from the Central District Plan does recommend retail and single-family uses up to 4 DUA (dwelling units per acre) for the site. The proposal itself is for any nonresidential use or combination of nonresidential uses allowed within the MUDD zoning district. That would be capped at 50,000 square foot size building. Notice that gas stations, carwash, and self-storage, and other auto-oriented uses are prohibited on the site. It does include some transportation improvements such as the construction of two ADA (Americans with Disabilities Act) curb ramps at the Central Avenue and Morningside Drive intersection. Commits to the construction of an 8-foot planting strip and an 8-foot sidewalk along the back of the existing curb along Central Avenue and an 8-foot planting strip and a 6-foot sidewalk along the site's frontage with Morningside Drive. Commits to preferred building materials, excluding materials like vinyl. It does orient the building again Central and Morningside while providing parking with enhanced landscaping to the rear of the site. Commits to a maximum height of 60 feet. Limits height of freestanding lighting fixtures to 15 feet, and also request one optional provision which would reduce required parking and only provide 1 space per 1,000 SF for all uses.

The staff does recommend approval of this petition. We do have some outstanding issues on transportation and some technical revisions related to the site and building design to work through. As mentioned it is mainly consistent with the Central District Plan. There is some minor inconsistency with the back side of the lot where it is still recommended for single-family uses, but overall, the petition is consistent with the Central District Plan and we will be happy to take any questions following the petitioner presentation. Thank you.

**Russell Fergusson, 933 Louise Avenue** said I am representing the petitioner. I also have the Principle of SRL of Central Avenue Properties with me tonight Stefan Latorre will be finishing up the presentation. As always, I want to thank the staff for their support and help on this. I think we are able to resolve a few outstanding issues from the last revision. This petition as mentioned by Dave is to allow the development of what is anticipated to be primarily a retail/office building on the corner of Central Avenue and Morningside Drive. It's currently in a very aging gas station and some single-story retail that is also kind of reached a certain age where it's kind of at a place where it's going to be replaced or renovated. I think this project is a really good fit for the location. It meets as Dave mentioned the current land use maps. It's also likely to fit into the future land use

maps in contemplated. Some of the points of this project are that the form is controlled by the building footprint, by the patio footprint, by height controls, and by maximum square footage. There's also specific maximum square footage for retail and EDEE type uses to make sure that traffic and parking doesn't get out of hand. It is very pedestrian-oriented in design. Bringing the building to the front, putting the parking in the rear, building modern scale sidewalks, and through cross access as you can see on the rear of the parcel there will connect to several existing large commercial parking lots that are not utilized during the evening hours. We have kind of reached a Goldie Loc consensus with the neighborhood. It also[inaudible] curb cuts that are there that are non-compliant curb cuts on the corner that make it very challenging to walk in the area. We have received the support of the Plaza Midwood Land use Committee by consensus. We presented to Commonwealth Morningside, which is just to the south of Central Avenue as well. We had two community meetings fully noticed and an additional separate meeting for all the immediate neighbors Morningside Drive. We're happy to have a supportive environment from the neighborhood. I think that's a very important thing. We spent a lot of time trying to kind of reach this Goldie Loc Consensus on how big the parking should be.

**Stefan Latorre, 2629 Central Avenue** said I've operated my law firm, Latorre Law Firm on Central Avenue since 1996. Ten years ago, I built a 14,000 square foot building and a few years later an 8,000 square foot building. I operate my law firm in both of those buildings. The purpose of this rezoning is to improve this property, which is next to our office buildings, and provide some amenities for my team at my law firm and also the community. We plan to have some retail and some office use, and we plan to use part of this building for our law firm's future expansion. So, we believe this is a project that is going to benefit our community.

**Councilmember Egleston** said thank you for as Russell said being proactive in terms of engaging not only the community this is technically in, but the community that this is adjacent to. I think this will be a vast improvement over the existing condition and Mr. Latorre, obviously not something that can be put into the rezoning, but as a successful local business owner in our community. I hope that as this project moves forward there will be preference given to small local businesses that make that corridor so special as opposed to ones that may be would not fit in with that corridor as well. Small immigrant-owned business is often in the stretch of Central Avenue. I do think this will be a great improvement.

**Councilmember Ajmera** said I'm excited about this rezoning petition because it expands the work that this law firm does. Especially for our immigrant community and the immigration law that they practice. I know many community members who live in this corridor would be very grateful for this. So, thank you for the work that you do Mr. Latorre.

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously to close the hearing.

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**ITEM NO. 30: HEARING ON PETITION NO. 2021-082 BY KINGER HOMES, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.39 ACRES LOCATED ON THE EAST SIDE OF CRAIG AVENUE, WEST OF MONROE ROAD, AND NORTH OF NORTH SHARON AMITY ROAD FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO UR-1 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is .39 acres on Craig Avenue. The existing zoning is R-3 and proposed rezoning is UR-1(CD) The adopted future land use from the South District Plan does recommendation for single-family residential up to 3 dwellings per acre. This proposal would be to construct three dwellings on the site. One would be a duplex, which would be the first one on lot one at the corner of Craig Avenue, and the newly improved Falcon Street that would run in front of those two lots. That duplex building would be designed to present one of the front doors onto Craig Avenue and the other would front onto Falcon Street. The single-family dwelling would be oriented to Falcon Street and also those architectural features related to façade building materials, usable porches/stoop/patios would be provided as well as a limitation on blank walls. There would be an eight-foot planting strip and a six-foot sidewalk along both Craig Avenue and Falcon Street. Also improves and constructs Falcon Street to city standards to the eastern property line. Provides a 35-foot setback along Craig Avenue from the existing future back of curb and a 26-foot setback from the future back of curb along Falcon Street that would help to align that building along Craig Avenue primarily with existing buildings on that street currently. Also, there's two large mature trees to be preserved along Craig Avenue within the setback. So, that increased setback on Craig Avenue would help to maintain those two existing trees on site.

The staff does recommend approval of this petition. We do have some technical revisions related to the site and building design to work through. While it is inconsistent with the district plan, it is consistent with general development policies that do support up to eight units per acre. So, with that, we will take any questions following Mr. Pennell's presentation.

**Paul Pennell, 1213 West Morehead Street, Suite 450** said as Dave had mentioned if you could just go ahead and fast forward to slide number four for me. Just to reiterate some of Dave's high-level points this was going to be increasing the setback along Craig Avenue to establish that traditional setback for the homes along Craig Avenue there. Today we will be protecting some trees along Craig Avenue as well increasing the setback along the to be constructed Falcon Street. But also, tree saves in the back. Initially, this rezoning petition had been submitted for three single-family homes upon the planning's request for a duplex and single-family home. We were able to accommodate that. Which we were excited about.

**Councilmember Ajmera** said I just have a comment Madam Mayor. I know this is .39 acres. It's a very small lot and still, they are preserving two mature trees. So, thank you. This is the kind of development we need.

Mr. Pennell said thank you for your comment.

Motion was made by Councilmember Newton, seconded by Councilmember Johnson, and carried unanimously to close the hearing.

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**ITEM NO. 31: HEARING ON PETITION NO. 2021-090 BY APM MALLARD CREEK, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 0. 4.18 ACRES LOCATED ON THE WEST SIDE OF MALLARD CREEK ROAD, NORTHEAST OF WEST W.T. HARRIS BOULEVARD, AND WEST OF INTERSTATE 85 FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO R-8 MF (CD) (MULTI-FAMILY RESIDENTIAL, CONDITIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is just over four-acres on Mallard Creek Road currently zoned R-3, the proposed rezoning to R-8 MF(CD) The adopted future land use from the Northwest District Plan calls for Single-Family residential use up to four dwelling units per acre. We do apply the General Development Policies (GDP) given the date of that district plan. It does meet the general development policies for consideration of up to eight dwelling units per acre. The petition itself is for 33 for-sale townhome units for a density of 7.9 dwelling units per acre (DUA). There's a 12-foot multi-use path that would be provided along with an eight-foot planting strip along Mallard Creek Road. We do have 14 guest parking spaces that would be committed to dispersant throughout the site. A 24-foot Class C buffer abutting single-family homes. We do limit building height to 40-feet, which is consistent with our single-family residential zoning. All freestanding lighting fixtures will be uniform in design and fully shielded to not exceed 22 feet in height. Also, there is architectural details that have been committed to that would include things like building materials. There would be a combination of fiber cement panel, fiber cement siding, brick, stucco, wood, EIFS, vinyl siding, synthetic stone. They would have building elevations design with vertical bays or articulated architectural features that will include a combination of at least three of the following which would be wall offsets (projections and recesses), columns, pillars, change in materials or colors, awnings, or other architectural features as well as meters, HVAC units and other types of utilities would be screened from all adjacent properties.

The staff does recommend approval of the petition. We do have some outstanding issues related to transportation, site design, and some environmental items to work through. While it is inconsistent with the adopted district plan, it is consistent with the general development policies of up to eight dwelling units per acre. The staff will be happy to take

questions following the presentation by both the petitioner as well as the member of the public that signed up to speak as well. Thank you.

**William Wallace, 6101 Carnegie Boulevard Suite 310** said I'd also like to extend a thank you to Michael Russell and Councilwoman Johnson, both of whom have been gracious with their time and input as we've navigated this process. I will be presenting this evening on behalf of the petitioner, APM Mallard Creek, LLC, and as come with the previous rezoning presentation. Most of what was covered in the prior presentation is also in my slide show here. So, just to give you an aerial view of the site, this is it here. It's a two-tracks side by side composing roughly 4.18 acres right off of Mallard Creek Road. You can see neighboring the site residential communities and you can also note its proximity here in the corner is Mallard Creek Elementary School. This is a look at the proposed site plan and what has been reviewed and recommended for approval. Again, it's a 33-townhome units. The proposal will have six buildings and you can see the buffer area 18 feet in or around the development on the sides and here along the back neighboring the Lampkin Way properties. Then in and around the retention pond a 24-foot buffer.

During our meeting with the community back on September 7<sup>th</sup>, there were several members in attendance. We actually had over 20 community members attend the meeting. Only one of which is in opposition this evening. Among the two concerns presented at the time of the meeting were storm water and water runoff stemming from the site and then also parking and overflow of the townhome site parking. So, as to drainage, the plan proposes a retention pond and that retention pond is going to be located at the lowest corner of the site. So, again if you look at the site plan you can see back there in the rear corner the retention pond set aside. This will be at the lowest corner and designed so that the water runoff and storm water can drain to the retention pond away from the streets. Keep in mind that it is going to be designed and engineered during the design process with a Civil engineer and that it will have to meet the City Storm Water standards. There were no issues or comment from the City Storm Water in relation to this proposal. So, everything in relation to meeting the Storm Water standards will be met in order for us to pertain to permitting during the development stage. One thing that we did do in this process was we had communication with Water Shed Area Manager Doug [inaudible] and he did note that a retention pond such as this is sometimes used for townhome developments. The benefit is that while there is going to be green and underdeveloped space being removed from the site and replaced with impervious elements, ultimately what's going to happen is because of this retention pond and this design the water runoff is actually going to be released at a slower rate than it was previously. So, we are developing everything and there is concern from the residence as to water runoff, our proposal will actually help address those concerns rather than worsen the effects that they currently have with drainage.

Also, parking was a key issue. Again, if we look to the site plan we address that with the addition of these 10 guest parking spaces. You can see those toward the rear-facing in at the retention pond. Each unit is going to be equipped with a driveway and a garage.

So, each unit is going to have its own natural set of parking spaces assigned with it. In addition, we have four guest parking spaces here on the side. Then because we wanted to implement some of those community concerns, we added in the 10 new spaces toward the back. So, that will address the fears surrounding an overflow into the neighboring community. In addition to us addressing those community concerns I would like to reiterate that this plan is in consistency with the General Development Policies and support the density of eight dwelling units per acre. Moreover, this proposal, I believe is the exact type of development that encourage through the guiding principles of the Charlotte Future 2040 Comprehensive Plan. Five of the applicable goals of that plan we've met four of those. This provides for 10-minute neighborhoods. So, essential amenities, goods, and services are in close proximity and one of the key strengths of this plan is that it provides for neighborhood diversity. As Charlotte continues to grow we want to provide a diversity of housing options and that encourages the increase of middle-density housing and townhomes are the exact thing that we're looking for, especially with the growing City. Right now, this is underdeveloped land. There are only six single-family residences on the site. So, you have a large portion of untapped acreage and by putting in 33 units, we can provide some good housing options to our ever-growing population.

I think while it doesn't create affordable housing it does stand to service two key demographics. Quite frequently we older senior citizens moving in or downsize to townhome units. So, this would be an available option for them. Then also first-time homebuyers right now are in a tough spot having to try and find price points that fit with what they need in a situation where there is low inventory at that approximated \$350,000 starting range. This may provide them with that option as well. So, it's providing an opportunity for first-time home ownership and opportunity for downsizing and ultimately I think with these strengths in comparison to the recommendation from the Planning Staff and the fact that we have addressed community concerns. The rezoning petition warrants approval.

**Lin-Tine Li, 10236 Lampkin Way** said thank you for allowing me to speak about the public safety concerns. Some of the information was only partially presented. It gets one-sided, right. There are a lot of us with community concerns, but unfortunately, they could not make it. So, I'm representing some of the schoolteachers which is nearby, and also with the [inaudible] communities residential use. Let me give you 30-seconds [inaudible] by all means. I came for Charlotte about 30 years ago studying in the Mechanical Engineer Computer Science. I am a graduate of UNC-Charlotte. I love living in the City of Charlotte. I moved to the Colvard Park Community 23 years ago, 1998. So, I've been living in this community for 23 years. I [inaudible]. A lot of benefits, a lot of economic growth. Also, there is a lot of infrastructures that need to catch up especially in the sections of [inaudible]. It's already over-congested. If you've ever been there in the morning time of school [inaudible] hour, right the traffic [inaudible] morning half a mile and sometimes one mile. Now, the impact to Mallard Creek traffic jam. Also, there are a lot of traffic accidents. It also has an impact to the horizontal of the already zoned sections. The cars are not able to turn onto Mallard Creek due to the school hours. That's one of many reasons because full large apartments that's been built recently. Infrastructure is not able

to catch up. The inside of our community was [inaudible] single-family rezoning [inaudible] apartments. Now, if we continue to add [inaudible] straight to Mallard Creek that's going to be [inaudible] to [inaudible] issues, right. These are some ideas Mallard Creek School also share the entries with the greenway. So, during morning traffic right there, that's [inaudible] residential [inaudible] park car in the [inaudible]. There's a school bus in the [inaudible]. There are all communities in [inaudible] apartments. We try to get out to go to work so we can [inaudible]. So, there's really [inaudible] traffic already. [inaudible] happens all of the time, year by year when we see apartments show up, right. They are [inaudible]. They are [inaudible] the sidewalk too. Now, we [inaudible] high density. So, the residential multi-family, right. The cars in and out will increase the traffic for sure. One thing I'm not sure when I [inaudible] through the community, right there's some [inaudible] traffic [inaudible] is not right. At 33 units, right they say it's only an increase of 220, but with 12 units it's 150. So, there is an inconsistency ratio to count the traffic to. That's a major concern for public safety. A lot of school children in the morning. They walk through from the apartments to the school, right. So, with the increase of traffic in and out there could be an increase in the accident too. So, the apartments are a public safety concern. School children, CMS (Charlotte Mecklenburg Schools) school [inaudible], and teachers. That's a really huge concern now [inaudible] in our communities.

Second, some of the information was not based on the facts, right. As manufacturers, I've sent emails and picture evidence to the builders, to lawyers, also to the zoning community, right. They are [inaudible] of problems. It happens before the rezoning apartment on the size of our community at the. [inaudible] a lot of monies, right. I [inaudible], I take [inaudible], I [inaudible], I go a lot of [inaudible]. I spent hundreds of thousands of dollars pine needles trying to reduce the waterflow. The reason being because of the currents of 4 -acres of land, right. They are in higher grounds. Our community is in lower grounds. So, water as everybody knows water goes from higher grounds to lower grounds. So, during the drainage of not a tropical storm or just heavy raining, thunderstorm, right they are [inaudible] current properties. I did provide picture evidence from the community for that. So, that's kind of [inaudible] concerns there. We need to resolve the issue, right. I also took pictures and presented evidence from the community too. That's a picture too. Even I invested a lot of monies [inaudible]. So, you can see the water is from higher ground to lower ground. I planted a lot of bushes, trees. I used pine needles, all-natural material because I like to protect our environmental, rights. [inaudible]. There is still a lot of wash out to the city sewage system, which is a danger to our City too. I've tried to contact the builder and lawyers. They are way too many and these are our concerns right now. [inaudible], private fence, right. That's not going to prevent the issues and [inaudible] response back.

So, you can see about 15 years ago I had a private fence put in. [inaudible] fence or I could get the vinyl siding. I didn't do either one because with a [inaudible] fence it [inaudible] trees. It's not good for the environment. The [inaudible] is also poison to the environment. What I did is spend thousands of dollars to hire landscapers, you can see [inaudible] pine trees, they were built [inaudible] 15 years ago. They are only six feet.



They have fully grown to the 20 or so trees. They are 42 of them surrounding my property because it's good for the City of Charlotte, good for the environment. [inaudible]

I will conclude one is for public safety. Mallard Creek is already overly congested. There's traffic jams every single day at the end of the school day [inaudible]. Second, the [inaudible]. I showed picture evidence. So, [inaudible] they can prevent the issue. [inaudible]. Thanks for listening.

In Rebuttal Mr. Wallace said just as to the traffic there was no traffic impact study required for this site. C-DOT requires a traffic impact study if the development is going to generate 2500 or more vehicular trips per weekday. Obviously, as Mr. Li referenced, this is going to account for 210 trips per day. So, it is minimal in comparison. Also, a study is required by C-DOT when it's going to affect a location with high vehicle crashes. When it takes place at a high congestion location or if it exacerbates an already difficult situation such as school access. So, an external factor that Mr. Li was referencing are already taken into account by C-DOT and again there was no need for a traffic impact study here. So, while the community may feel that perhaps there's some [inaudible] traffic issues the data show that this development is not going to increase additional problems there. As part of the erosion and the drainage concerns again, I just want to reiterate because of the retention pond and as Mr. Li says water seeps to a lower level, our development is actually going to help in the release of the water run off to where it's actually going to occur at a lower rate than it is currently. So, with this development, some of the soil erosion and the water run-off issues that the community may be experiencing have the potential to be improved.

**Councilmember Eiselt** said is Mr. Li still on? I just want to check which house. Mr. Li, is your house one of the cul-de-sacs in between the cul-de-sac in the retention pond?

Mr. Li said yes, so I have the lot adjacent to the 4.6 acres.

Ms. Eiselt said Mr. Wallace, I do worry about and it is creating a lot of impervious space. What can you do to further improve the direction of the water? So, not just to build the retention pond, but this is a problem we have been talking about in meetings recently with storm water. It's an impervious space where it doesn't exist now. Waters going to go where it wants to go to some extent, but can you do a retention wall or something to help direct that water towards the retention pond?

Mr. Wallace said there is a retaining wall on site, but I would again let everyone know a retaining wall only helps with the grade. That doesn't go towards water run-off and storm water. The location of the retention pond as shown on the site plan is actually at the lowest point and so water seeps to the lowest point the way this is set up. Again, Doug [inaudible], commented on this as well. There was another community member that had issues regarding drainage. This is something that is usually taken on by townhomes or is not good for townhome developments. It's going to be designed during the design process through a Civil Engineer and it will meet the City Storm Water standards. So, I think all of the concerns as it pertains to storm water, water run-off, and how that is impacted by this

impervious, that's going to all be fudged out during the design process and I think the plan we have in place with this retention pond, where it's located, the size of the retention pond is an adequate solution to handling any storm water concerns. Again, we have people from Charlotte Water Shed agreeing with that.

Ms. Eiselt said then I'll take that up with the staff because frankly, I don't always agree with what the City considers to be adequate, because you see the damage when your residence calls you and you go out there, and the rain has overwhelmed the existing system. So, Dave maybe we could get a little more information about that. You have an opportunity when you are building it to include a bigger drain, to do more French drains, things that aren't that expensive frankly for somebody who's building 33 townhomes versus the damage caused to landscaping. I'm sure that Mr. Li has spent thousands and thousands of dollars trying to just not lose his beautiful trees. So, when we talk about saving trees, not killing them with storm water is one way. So, Dave maybe you could give us more information about the engineering part of it that's going to actually divert the water.

Mr. Pettine said yes, we can follow up with the Storm Water staff and try to get you some information on that.

**Councilmember Ajmera** said when we have Storm Water concerns we are often told that it will have to meet Storm Water Ordinance, right. In order for the development to get approval. I know that in our UDO we are strengthening the Storm Water regulations. So, that may not apply to this development specifically because it's going to get adopted next year. So, I guess what additional measures are we requiring in our UDO that currently doesn't exist?

Mr. Pettine said I would have to provide that in a follow-up report as well. I'm not as familiar with the Storm Water section of the UDO and what the differences are between current and proposed. So, that's another item I will send over to them when we reach out about the additional engineering aspects of this site and how it's going to handle Storm Water. We will also see if they could give us a good overview of what the difference may be between existing and proposed ordinance requirements.

Ms. Ajmera said thank you and Mr. Li, keep saving those trees. Thank you very much.

Mr. Li said I will. Thank you.

**Councilmember Johnson** said I was just going to ask if we could have a copy of Mr. Li's presentation?

Mayor Lyles said Mr. Li, can you email us your presentation?

Mr. Li said certainly. I am more than happy to.

Mayor Lyles said thank you very much. You can send it to the City Clerk's Office, and we can distribute it as a part of the follow-up.

Ms. Johnson said he's absolutely right about the traffic and Mallard Creek Elementary. I know that's a concern around all of the schools. So, I don't know what can be done. We can certainly talk about it, but it is a problem at that subdivision and on Mallard Creek. It almost seems dangerous because it blocks the whole inside lane.

Mayor Lyles said I understand, and I've gotten several emails because people are using the opposite side of the street because of the cars going into. I ask that they please contact the school's transportation system, but there is an issue there. That issue needs to be resolved in some way. I have not heard back from the school system, but basically, it's like the stack is so long and people are trying to go to work and so they drive the lane that they are not supposed to drive which is absolutely one of the most dangerous things that can happen on a City street in the morning in Charlotte. So, I have not heard back from the school system, but I did ask them to take a look at it.

Ms. Johnson said yes, perhaps if C-DOT could take a look at it because that is a part of Mallard Creek that's kind of downhill and might have a blind spot and it's very dangerous. That line is very long. If

Mayor Lyles said I wonder what the remedy would be for a bus stop there. I'm always surprised by the amount of students that it says for 32 townhouses. Mr. Wallace, how many bedrooms are in the townhomes? Is it going to be one or two bedrooms?

Mr. Wallace said that's an excellent question. I'm not entirely sure. The Petitioner is on with us as are Matt [inaudible] and Matt Gallo. Who are the lead architects on this? Matt and Matt do you know as to the proposal for bedrooms for the townhomes?

**Matt Gallo, 145A Scaleybark Road** said with [inaudible]. In talking with Dave Patel and designing the site plan we discussed between two and three bedrooms per unit.

Mayor Lyles said two and three bedrooms? Okay, thank you very much for that information.

Ms. Johnson said I just like C-DOT to take a look at the petition because traffic is really bad and it's dangerous. So, if there's something we can do. I know it's a problem around all of the school, but if this C-DOT can take a look at that. Taiwo, if that's okay. I'm asking for them too. Thank you.

**Councilmember Phipps** said you indicated that these 33 townhouses would be for-sale units. Is that correct?

Mr. Wallace said yes, sir.

Mr. Phipps said given the assertiveness and aggressiveness of New York [inaudible] coming in and neighborhoods and buying up properties I guess foreclosing on first-time home buyer's ability to get some to these properties, is it anything you could do to try to prevent that because otherwise, these townhomes could become like rental properties. So, is there going to be a concerted effort to in fact have regular people to be able to buy, first-time home buyers, or anybody to actually buy these homes, or are these going to be scooped up by [inaudible] or whatever, given the current market environment?

**Terrie Hagler-Gray, Senior Assistant Attorney** said Mr. Phipps we need to be careful about making sure we don't get into ownership issues.

Mr. Phipps said I've asked him a legal question.

Mr. Driggs said it is a land-use question.

Mayor Lyles said it's sits on the border very much of what we can ask a petitioner. Maybe perhaps the other way to ask it is, is there going to be an HOA (Homeowner Association), and do you have a draft of how you're going to use the HOA of the plan that you can provide to us?

Mr. Wallace said at the current time there is not yet covenants restrictions in place for this because we're not at that point. I will be working with the petitioner as he goes through the development process and at a certain point it would be my recommendation to the petitioner that he does have covenants by laws and an owner's association established. So, I will discuss that with him once he gets to the point where the development is underway. To Mr. Phipps's comment, there is going to be language worked into the restrictions depending on what the petitioner is wanting, but these have always been the goal of these developments the goal has been for it to be for sale. There's no desire on the part of the petitioner to rent any of the units. I'm sure when he gets to a position where he actually begins marketing them considerations are going to be determined based on where we are at with the market, but they are going to be marketed as for sale. Working with him it would be my recommendation that would get an owner association established, covenant restrictions established, and then by laws steaming from that.

**Councilmember Driggs** said this is not a question. I just want to share with you I would like this better if it had a little more open space. It looks like a barracks to me, and I think that also goes to this Storm Water question. So, a couple of fewer units, maybe. A little open space is one of our priorities in terms of the kind of development we are encouraging. I'll talk to you a little bit more offline, but I just wanted to make that point. Thank you.

Mayor Lyles said I think that is a great point, Mr. Driggs. If you had said studio or one-bedrooms it would have been fine but having two and three bedrooms allows for a sizable number of choices and those choices often require amenities. So, that's what I would say about that.

Motion was made by Councilmember Driggs, seconded by Councilmember Graham, and carried unanimously to close the hearing.

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**ITEM NO. 32: HEARING ON PETITION NO. 2021-094 BY ICON CUSTOM MASONRY, INC. FOR A CHANGE IN ZONING FOR APPROXIMATELY 1.88 ACRES LOCATED ON THE NORTH SIDE OF WISTERIA DRIVE, EAST OF SOUTH BOULEVARD, AND SOUTH OF ARCHDALE DRIVE FROM R-22 MF (MULTI-FAMILY RESIDENTIAL) TO UR-2 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is 1.88 acres on Wisteria Drive, just off South Boulevard, currently zoned R-22, the proposed zoning is UR-2 (CD). The adopted future land use from the Tyvola Archdale Transit Station Area Plan does recommend residential less than or equal to 22 dwelling units per acre. This proposal is for up to 33 single-family attached dwellings for a density of 17.4 units per acre. So, it is consistent with that adopted future land use. Building height would be limited to 40 feet. They have architectural commitments built into the plan. It also provides access via an internal alley off of Wisteria Drive. There will be an eight-foot planting strip and an eight-foot sidewalk along that frontage of Wisteria Drive. All units will be rear, or alley loaded. There will be a 16-foot landscape area planted to a Class C standard as well as 6-foot-tall wood screen fence along the northern and eastern property lines where it's adjacent to single-family homes.

The staff does recommend approval of this petition. It does have some outstanding issues related to technical revisions and site and building design. This proposal is consistent with that Transit Station Area Plan. It's also consistent generally with that R-22 zoning that it currently has. I believe the UR-2 district does allow for some different development standards that allow a little bit different flexibility with the site design. Of course, the petitioner's team can speak to that, but overall, it's consistent with that area plan and fairly consistent with the existing zoning that's in place. So, again the staff does recommend approval upon resolution of those items and we will be happy to take questions following Mr. Carmichael's presentation. Thank you.

**John Carmichael, 101 N. Tryon Street, Suite 1900** said I here on behalf of the petitioner. The site contains about 1.89 acres. It's located on the north side of Wisteria Drive just the east intersection of Wisteria Drive and South Boulevard. This is the aerial of the site; you can see South Boulevard to the west. There is a commercial development to the west as well, multi-family development to the south, single-family to the north and east. The site is located just over half a mile from the Archdale Transit Station, which is located to the north of the site.

The current zoning of the site as Dave said is R-22 MF, which is a multi-family zoning district that allows up to 22 units per acre. Parcels to the south of the site are also zoned R-22 MF. Parcels to the north and east are zoned R-4. To the west as you can see the parcels are zone TOD-TR and B-2. The request is to rezone the site from R-22 multi-family to UR-2 CD to accommodate up to 33 single-family attached townhome dwelling units. The density is about 17.4 units an acre. So, less than the 22 units per acre under the current zoning.

They had a rendered site plan that was part of the PowerPoint presentation, but I will tell you that the units would be rear-loaded alley-loaded units. They'd have two car tandem garage. There will be a maximum height of 40 feet as requested by the Planning staff. There'd be an 18-foot-wide planting strip there planted to the standards of a class C buffer along the north and eastern boundaries of the site. There would also be a six-foot-tall wooden fence along the northern and the eastern boundary. We had two meetings with the neighbors, and we are happy to answer any questions that you may have.

**The following persons submitted written comments regarding this item pursuant to S.L. 2020-3, SB 704. To review comments in their entirety, contact the City Clerk's Office.**

**Nancy Betler, [nbetler@gmail.com](mailto:nbetler@gmail.com)**

Motion was made by Councilmember Bokhari, seconded by Councilmember Graham, and carried unanimously to close the hearing.
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**ITEM NO. 33: HEARING ON PETITION NO. 2021-098 BY RANGE WATER REAL ESTATE FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.49 ACRES LOCATED AT THE INTERSECTION OF NATIONS CROSSING ROAD AND WEST EXMORE STREET, NORTH OF WOODLAWN ROAD FROM I-2 (GENERAL INDUSTRIAL) TO TOD-CC (TRANSIT-ORIENTED DEVELOPMENT - COMMUNITY CENTER).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is 3.49 acres on Nations Crossing Road and West Exmore Street. The current zoning is I-2, general industrial, the proposed zoning is for a conventional TOD-CC. The Woodlawn Transit Station Area Plan from 2008 does recommend office and retail uses for this site. So, generally consistent. It just doesn't have that residential component to the land use recommendation to make it fully consistent. So, we do consider it inconsistent with that area plan, but staff does still recommend approval of this petition. The CC district is applicable within the half-mile walk of the Woodlawn Station. So, this does fall within that and again the staff does support

the petition and we will be happy to take any questions following the petitioner's presentation. Thank you.

**Keith MacVean, 100 N. Tryon Street Suite 4600** said I am with Moore Van Allen. Thank you for your time. Dave thank you for the presentation tonight. As Dave mentioned, this site is a 3.49 acres site requesting zoning from I-2 to TOD-CC located at the intersection of Exmore and Nations Crossing, within a half-mile walk of the Woodlawn Station. There are a number of adjacent parcels that are zoned TOD-CC, as well as other rezoning requests [inaudible] to that same category. The area plan does recommend office retail uses. However, as Dave mentioned, and I have mentioned the site as well as within a half-mile of the Woodlawn Station are. It also is less than a half-mile to [inaudible] which is just to the north of the site. Another part of the transit corridor is developing quickly with transit-supportive uses.

In summary a request to go from I-2 to TOD-CC to allow transit-supportive uses for a site located in close proximity to transit services. There are other transit-supportive uses that are underway in the area. This would add to that and continue the transit-supportive redevelopment of this portion of the Blue Line Extension. I do want to mention that Palmer McArthur is on the line as well and available to answer questions.

Motion was made by Councilmember Graham, seconded by Councilmember Bokhari, and carried unanimously to close the hearing.
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**ITEM NO. 34: HEARING ON PETITION NO. 2021-099 BY DUCKWORTH PROPERTY MANAGEMENT FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.46 ACRES LOCATED ON THE EAST SIDE OF STATESVILLE ROAD, SOUTH OF CINDY LANE, AND NORTH OF INTERSTATE 85 FROM B-2 (CD) (GENERAL BUSINESS, CONDITIONAL) TO B-2 (GENERAL BUSINESS).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is just under a half-acre on Statesville Road currently zoned B-2 (CD). The proposed zoning is just to take that to a B-2 conventional similar to the property just to the south at Statesville Road and Kendrick Avenue. The adopted future land use from the Northeast District Plan does call for retail uses for this site. So, the B-2 request would be consistent with that. The staff does recommend approval. This was a conventional petition just for that one parcel. The parcel to the south is also zoned B-2 conventional. So, this would add to that consistency between the two zoning districts with those two parcels which I believe are both under the same property ownership. Mr. Duckworth may be able to answer that question a little bit better. Again, the staff does recommend approval. It is consistent with the district plan and we will be happy to take any questions following any questions or comments by Mr. Duckworth. Thank you.

**James Duckworth, 4432 Statesville Road** said I'd like to thank you guys for being with us and helping us on this. We are just trying to make both properties the same. My grandfather owned the property for 40 years. I am trying to run my business. I just want to keep it family owned.

Motion was made by Councilmember Winston, seconded by Councilmember Newton, and carried unanimously to close the hearing.

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**ITEM NO. 37: HEARING ON PETITION NO. 2021-105 BY CAROLINA CAPITAL REAL ESTATE PARTNERS FOR A CHANGE IN ZONING FOR APPROXIMATELY 4.44 ACRES LOCATED ON THE NORTH SIDE OF ROUNTREE ROAD, SOUTH SIDE OF SCHOLTZ ROAD, WEST OF OLD PINEVILLE ROAD FROM I-2 (INDUSTRIAL) TO TOD-CC (TRANSIT-ORIENTED DEVELOPMENT - COMMERCIAL CENTER).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is about 4.5 acres on Roundtree Road and Scholtz Road just off of Old Pineville Road. It is currently zoned I-2 as much of that area still is. You can see on the map their lots of I-2, but you can see some TOD-CC just to the north. The adopted future land use from the Woodlawn Transit Station Area Plan does recommend office/industrial-warehouse distribution for this site. Just to the north, we have TOD employment uses recommended. This site is within about a third mile walk from Woodlawn Station approximately a three-quarter mile walk to the Tyvola Station on the Blue Line. The property to the northeast across Scholtz Road is also zoned TOD-CC. So, it does fall within the parameters to apply that district here. As mentioned it is inconsistent with the area plan, but due to the proximity of the location to those station areas as well as the existing TOD-CC, the staff does feel that it's at an appropriate consistent transition. We do recommend approval. I would be happy to take any questions following Mr. MacVean's presentation.

**Keith MacVean 100 N. Tryon Street Suite 4600** said I am with Moore Van Allen assisting Carolina Capital Real Estate Partners with this petition. With me, tonight representing the petitioners is Tod Harrison. I think Dave has done a great job summarizing the petition site. It's just over four acres going from I-2 to TOD-CC to allow transitive supportive uses for a site in close proximity to two existing rapid transit stations. There is existing TOD zoning in the area, and an existing current TOD development is nearby. I'm happy to answer your question, Mayor.

Motion was made by Councilmember Winston, seconded by Councilmember Newton, and carried unanimously to close the hearing.



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**ITEM NO. 38: HEARING ON PETITION NO. 2021-163 BY BP-METROPOLITAN NC, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 3.23 ACRES LOCATED ON THE EAST AND WEST SIDE OF EAST 7TH STREET, NORTH OF NORTH COLLEGE STREET, AND SOUTH OF NORTH TRYON STREET FROM UMUD (UPTOWN MIXED USE) AND UMUD-O (UPTOWN MIXED USE, OPTIONAL) TO UMUD-O SPA (UPTOWN MIXED USE, OPTIONAL, SITE PLAN AMENDMENT) AND UMUD-O (UPTOWN MIXED USE, OPTIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is between North Tryon Street and North College Street along 7<sup>th</sup> Street as well as East 6<sup>th</sup> Street, currently zoned U-MUD as mention. Looking at a U-MUD-O with the Site Plan Amendment component as well. The adopted future land use is from the Charlotte Center City Vision Plan and the North Tryon Vision Plan. Those plans don't necessarily make specific land use recommendations. They do just encourage future development that contributes to the overall viability and livability of the center city. So, we do feel that this petition will continue to implement that goal of the Center City Vision Plan. The proposal is for all uses in the UMUD zoning district. We do have some optional provisions that deal with setbacks along the travel lane on 7<sup>th</sup> Street as well as allowing things like rideshare, valet, or similar areas in that setback between the building and the street on both 7<sup>th</sup> Street and the north side of College Street. We do have an eight-foot minimum setback on 7<sup>th</sup> Street measured from the back of the granite band or curb at the beginning of the property line with the adjacent parcel. That setback will transition to a minimum of 16 feet when it gets down to a pedestrian portal. That's a little bit further down toward 7<sup>th</sup> Street and College Street. We do have a provision included to allow maneuvering in the setback along the frontage of the site as well as the adjacent parcel. A 50% reduction in the required number of loading docks, As well as a 5% reduction above permitted doorway within the ground floor retail requirements for the frontage of College Street. We do allow the elimination of on-street parking and reduce lanes along both sides of 7<sup>th</sup> Street. Also, a provision to eliminate on-street parking along the west side of the College Street generally depicted on the site plan. We do designate rideshare areas along 7<sup>th</sup> Street in this petition. It does provide street trees and grates along the road frontages along with 16-foot sidewalks except in the area where the setback gets a little bit narrower as you go up to 7<sup>th</sup> Street towards North Tryon Street.

The staff does recommend approval of the petition. We do have outstanding issues with transportation and site and building design to continue to resolve. As mentioned it is consistent with the Charlotte Center Vision Plan and the North Tryon Vison Plan. We will be happy to take questions following Ms. Grant, the project's team presentation.

**Bridget Grant, 100 North Tryon Street, Suite 4600** said I am a Land Use Consultant with Moore and Van Allen. I'm here with Cary Euwer with Metropolitan, as well as representatives from Little Architecture BCT Design Group Land Design, and Moore Van

Allen assisting on the rezoning side. You are all very familiar with this site. We know there are a number of conversations to be had on the detail for future P3 efforts. Tonight, we are going to limit our presentation to focus on the zoning aspects.

As Dave mentioned this is a rezoning to allow some technical revisions to the zoning. We are maintaining that the Center City Zoning district that allows a wide range of uses. The zoning is not user-specific, and the emphasis will be on the pedestrian ground. The UMUD optional provisions just give us some technical flexibility and allow some modest design deviations in the building location. It considers current market needs like rideshare locations that we need and require optional provisions. I'm not going to go over the site. Dave has already covered that. You can see from the rezoning plan at the general bubble diagram, this allows for ultimate flexibility, and building placement and uses consistent with other Uptown rezonings. Dave walked through all of the optional provisions.

Also, this PowerPoint presentation to you, but essentially walks through in a box and shows you the specific locations where we are seeking deviation on the sidewalk width reduction, and some of the blank wall treatments to the future development and rideshare provisions. As I said we are maintaining all of the uses permitted under UMUD. We are maintaining the height that's permitted under UMUD. We plan to exceed the required open space and establish cross-sections of pedestrian ground on all of the public streets. This incorporates the 6<sup>th</sup> Street's cycle track and maintains alignment with the North Tryon Street Vision Plan and the Center City Transportation Plan. With that, we are happy to answer any question.

**Councilmember Egleston** said I was just going to say I have a lot of questions and thoughts on this parcel and project, but as it relates to this I do think it's simply technical adjustments and this is not the place for me to voice those questions or comment.

Motion was made by Councilmember Egleston, seconded by Councilmember Winston, and carried unanimously to close the hearing.

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**ITEM NO. 36: HEARING ON PETITION NO. 2021-104 THE BEECHWOOD ORGANIZATION FOR A CHANGE IN ZONING FOR APPROXIMATELY 0.69 ACRES LOCATED AT THE NORTHEAST INTERSECTION OF PROVIDENCE ROAD AND FERNCLIFF ROAD, WEST OF RANDOLPH ROAD FROM R-3 (SINGLE-FAMILY RESIDENTIAL) TO UR-2 (CD) (URBAN RESIDENTIAL, CONDITIONAL).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is .69 acres at Providence Road and Ferncliff Road zoned R-3, requesting a UR-1(CD) zoning. The adopted future land use for this is from the South District Plan, which is from 1993. So, we do apply a General Development

Policies due to the age of the plan. That petition does meet the GDP (General Development Policies) criteria for consideration of up to eight dwelling units per acre. The proposal is to allow up to five attached dwelling units on the site that would be split between a two-unit building, which would face Providence Road and in the three-unit building facing Ferncliff Road that would commit at a density of 7.24 acres. The building height would be limited to 40 feet, again consistent single-family residential zoning districts. We do have a 64-foot setback from Providence Road which would align it with similar residential developmental along the corridor. A minimum of 2,000 square feet of common open space would be proposed in that location within that Providence Road setback. It does specify exterior building materials and commits to screening meter banks and HVAC (heating, ventilation, and air conditioning) equipment from the view of the public streets and adjacent properties at grade. It does get into lighting requirements for full cut-off lighting and limiting those to 16 feet in height. There is also a 10-foot side yard that is being proposed on the eastern property line. That will be planted with supplemental vegetation and maintain existing vegetation that is already there. It does provide a 10-foot rear yard along the northern property line as well. All units will be rear loaded. So, front doors would face public streets. There would be a shared drive off Ferncliff Road that would access both buildings. There is also the construction of an eight-foot planting strip and an eight-foot sidewalk along with Providence as well as an eight-foot planting strip and six-foot sidewalk along Ferncliff Road.

The staff does recommend approval of this petition. We do have outstanding issues and technical revisions related to the site and building design as well as transportation. While it is inconsistent with the South District Plan, again it is consistent with General Development Policies, which do support the density requested. Which again is about 7.24 units to the acre. The staff does again recommend approval and we will be happy to take any questions following Ms. Grant's presentation.

**Bridget Grant, 100 North Tryon Street, Suite 4600** said I am a Land Use Consultant with Moore and Van Allen. I am here tonight with Bob Kardos with Beechwood Homes, Emma Littlejohn, our Housing Consultant. John [inaudible] Design, and Eric Canton with BGE. Beechwood Homes is ranked at the forefront of privately-owned residential developers nationwide. They are known for building a lifestyle of quality architecture. Their company is known for thoughtful planning and design and a context-sensitive manner.

Here I'm going to talk a little bit about the benefit of conditional zoning. We are seeking to rezone a .69-acre site in a low-density form utilizing that UR-2 zoning district to allow some flexibility on some of the base standards over the density that is consistent with the adopted land use policy, which we know is not something we get to say very often. The conditional zoning is serving as that tool in the toolbox to go to a higher level of design standards on this site. It's facilitating a process and is intended to be collaborative in nature. Through this process, we were able to provide greater certainty on the development, community engagement, higher level of design standards. We have narrowed in on architectural standards, building articulation, larger buffers, signature

open spaces, some height limitations, and a defined relationship with the adjacent property.

So, Dave has already gone over where the site is on the corner of Ferncliff and Providence. Here it is in a larger context. You can see the Rosewood Condominiums on the corner. These are some photos of the existing site. There are two structures on this site. Again, that's residential in nature located right on the corner of Providence and Ferncliff. As Dave mentioned it calls for residential land uses in this location, but interesting enough the 2040 Plan does place emphasis on providing diversity and housing types in creating options for people [inaudible] price point, but also in form. So, this will include creating opportunities for townhomes in a location similar to this on a main thoroughfare like Providence Road.

We are looking again a change in zoning from R-3 to UR-2 (CD) for a total of five residential units. We are maintaining our setback along Providence Road. We are maintaining the trees along Providence Road, providing rear-end load parking and alley-fed garages. We are maintaining existing vegetation along the northeast property line with increased [inaudible] up to 10 feet. Some of that vegetation is on the adjacent property's side of the line. So, we are going to talk a little bit about that in a second. We will provide new sidewalks on Ferncliff Road. We've got architectural commitments and again a maximum height of 40 feet. When we redid the site plan we did increase the side yard close to the existing residence on Ferncliff Road. We originally had put it in at five feet. We increased it to [inaudible] to give you an idea of what the proposed units will look like. This view is looking down Ferncliff Road. You can see it's in the scale of a lot of the redevelopment that is taking place along this corridor. We also had a cross-section created to show how the proposed units compared to the existing single-family home next door. Our height is again consistent with single-family residential zoning. We did have the opportunity to speak to Ms. Schier earlier today. One of her concerns was the vegetation that's there has [inaudible] about six feet. So, it makes sense we are going to provide a six-foot brick wall along our shared property line to give her a little more privacy to protect her from some of the noise from the proposed development. So, with that, I will go ahead and close. We are happy to answer any questions.

**Susan McDonough, 1616 Ferncliff Road** said I am one house removed. Ms. Schier, who is actually here sitting beside me tonight. We are sharing my dining room. So, Wendy if you could keep this line open for her because she didn't sign in separately. I live in one house removed. I am in support of the multifamily aspect of this development. That's really not the issue. The two concerns that I have; the primary one is related to trash and recycling pick up. According to the City Code, this is under 11 townhouse units. So, they can use the city pick-up for putting the cans out on Ferncliff Road. The only access in and out of this property is Ferncliff Road. Previously a single-family home there were two cans out there. Now there would be potentially 10 cans out there. Let me give you a little background about Ferncliff Road. Ferncliff Road is the major road to our development. We have over 200 homes. Ferncliff is close to the Sharon Amity and Providence intersection. The Rosewood condominium development is right around the corner. It is a

significant foot traffic road. You have people from the condo project walking in there. You have kids walking out to go to the elementary school up on the corner. You have baby carriages. Then in the morning because it's the major road and thoroughfare of Ferncliff Road in and out of our development, you have cars lined up probably 10 deep every morning trying to either turn left onto Ferncliff Road to get out to the protected area to go south on Providence Road or people trying to weave into the school buses and all of the ongoing traffic coming north onto Providence Road.

As our density has increased in our neighborhood going from a very small 2,000 square foot houses to now 5,000 square foot houses the amount of cars coming in and out of the neighborhoods is tremendous. The foot traffic, the baby strollers, the runners, the walker, plus we are a known cut-through street for folks cutting through to the Cotswold Shopping Center. So, my issue is not again, with the density of the project. I am very much in favor of these corner lots turning into a multifamily project, but what we'd like to do given the price point, and we think this is a very reasonable ask of the developer, we want them to not use City trash cans to stack all of those trash cans out there because the street is only 23 feet-wide and you have the 3-foot trash cans out there. Then you have two cars coming to both ways. Most of the SUVs are seven to eight feet wide. It would be a nightmare and there was also a fatality up on Sharon Lane nearby where a young kid riding his bicycle to school weaving around the trash cans was killed when he tripped and fell off of the bike. So, what we like for them to do and this is a very affordable option, we've researched this with several trash pick-up companies, make him get a two-cubic foot private dumpster on site. Many other townhouse projects of this price point and these sizes utilize this option to have trash pick-up on site. Those companies that come with smaller dumpsters have trucks that are very small that would fit within their driveway. So, the biggest issue is we want to not let them be allowed to have public trash pick-up and the can is out there. We just think it's a major safety hazard with all of the congestion, foot, and auto congestion and then require them to do the private pickup on site.

Then my second issue I had not had a chance to talk to Ms. Grant but was relative to the buffer of a solid brick wall. I would support and look forward to seeing designs and plans of that nature. So, if that is resolved then my remaining issue would really be the trash.

**Barbara Schier, 1624 Ferncliff Road** said my home directly borders the proposed project. In fact, a photo of my home is included in the City staff recommendation [inaudible]. My lot line on that side is actually 242 feet. So, I am speaking against this project until two issues are resolved by the developer. The same issues were raised with the developer at the City's public meeting in September, which I was unable to be seen. Issue one is originally I thought about a six-foot wall, but I see that another person has asked for an eight-foot wall and if that's possible that would be wonderful. I would like to have that built at the start of construction between the development and my property to provide privacy between the five-unit townhouse multifamily development and my 2,000 square foot home. A solid wall will provide not only privacy but noise abatement as well as an asset against property value diminishment.

In issue two I thought about safety for all of the neighbors that live in old Cotswold. As Susan mentioned Ferncliff Road and Providence Road are the main exit and entrance into this development of about 200 homes. I too has often seen many [inaudible] to go either go left or right at the stop sign. Ferncliff Road from Danbury Street [inaudible] the road comes down on a wide curve. In fact, my son's truck was damaged by a hit-and-run driver. Then I'm also concerned about all of the foot traffic, the bikes, the strollers, the people who live in this neighborhood and like to be out. So, in addition, I do have a problem with 10 trash receptacles being out there because I have seen the way cars sort of sideswipe each other and even though the speed limit is 20 and 25, they are going 40 and 45. Even flying over the speed bump in front of my home. So, there are other townhome projects around Charlotte where the developer has been able to arrange for a small dumpster to take care of these five families and also I think it would certainly eliminate disruption to the flow of residence's cars, the school buses, the [inaudible], and the cut-through traffic that goes through here over to the shopping center. Thank you.

Mayor Lyles said thank you, ma'am. I really do appreciate those comments.

In rebuttal, Ms. Grant said thank you, Ms. Schier and Ms. McDonough. We will continue to work with you on the trash pickup. I think there is also the option of having a couple of the units take the roll-out trash cans onto Providence Road and some of them go to Ferncliff. The other option is a dumpster. We would just like to talk to you to make sure that you are okay with that. There are a lot of communities that don't like the noise associated with dumpster pickups and we are happy to have that conversation. In terms of the wall, it is my understanding that six feet is the maximum height along the side yard wall, but we are also happy to look into that.

**Councilmember Bokhari** said thank you all for the feedback and I'll continue to track this one over the next month, but this sounds like you guys are in a pretty reasonable place in recognizing both the opportunity here for density as well as working with the petitioner. I would say that while obviously the trash pickup and things like that are things that we need to focus on and try to find a solution and the wall, I think the biggest things that I'm hearing from you as someone who lives on Ferncliff Road as well is the broader macro issue that I'm looking at very deeply right now, which is safety. We lack sidewalks, we lack the ability for our folks to get out and walk around. My wife and two of my kids were hit on Ferncliff not over just a month ago. It sometimes takes moments like this for a developer to bring forth a petition for us to remember and see and point out specific areas, but I think this is a broader issue. One that I am doing a bunch of research right now into. Just know that I've heard the broader points you have raised, and they are part of a bigger problem. Not one that is necessarily just associated with this petition and it's one I'm hopeful that we will rally the entire community around in the coming months and years to actually once and for all solve and invest in the proper infrastructure. So, we definitely heard your issues. I appreciate you bringing them forth.

**The following persons submitted written comments regarding this item pursuant to S.L. 2020-3, SB 704. To review comments in their entirety, contact the City Clerk's Office.**

**Kim White, 1611 Ferncliff Road**

Motion was made by Councilmember Egleston, seconded by Councilmember Winston, and carried unanimously to close the hearing.

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**ITEM NO. 35: HEARING ON PETITION NO. 2021-103 BY PROVIDENCE GROUP CAPITAL, LLC FOR A CHANGE IN ZONING FOR APPROXIMATELY 2.25 ACRES LOCATED ON THE NORTH SIDE OF BLAIRHILL ROAD, SOUTH OF CLANTON ROAD, AND WEST OF SOUTH TRYON STREET FROM I-1 (LIGHT INDUSTRIAL) TO TOD-UC (TRANSIT-ORIENTED DEVELOPMENT - URBAN CENTER).**

**Mayor Lyles** declared the hearing open.

**David Pettine, Planning** said this is 2.25-acres on South Tryon Street and Clanton Road currently zoned as mentioned I-1, the proposed zoning is TOD-UC. The adopted future land use Scaleybark Transit Station Area Plan which was adopted in 2008 recommends office and industrial warehouse distribution uses for this site.

The staff does not recommend approval of this petition in its current form. The staff is consistently mentioned they would support a petition requesting the TOD-CC district. Just to give you a little bit of background as to what some of those concerns are. Really the staff felt that the TOD-UC district was just not as an appropriate district as we kind of transitioned away from that station area. A lot of the surrounding properties are currently zoned TOD-CC. Most of them got the CC zoning through the alignment rezoning that we did. We do have some TR zoning. We actually have the adjacent parcel right next door that's currently a petition going to TOD-NC. So, the staff felt that the UC district was a little out of context in regard to building height and intensity. Just some differences between the two districts. CC district allows a base height of 90 feet. It caps off height at 130 feet. You can achieve that additional 40 feet to get there through the bonus structure, which provides things like energy-efficient design, contributions to the Affordable Housing Fund. The staff felt that the 130 feet is really the kind of max height that we felt was in context with the existing development and any future development in that area. In comparison, TOD-UC starts at 130 and allows a height that could get up to 300 feet with the bonus structure. So, that's one area generally of concern that the staff has, that large jump in intensity from 130 to up to 300 as opposed to capping things off at 130 particularly with the next-door site only having a max height of maybe up to 100 feet and some of the other surrounding uses that would be there really only having that 130-foot max height as well. So, the staff felt that was the most appropriate zoning district, the CC over the UC.

Also, it is right on the edge of that half-mile walk distance where UC can be applied. It really depends on where you want to take that measurement from. If you take it from the intersection of Tryon Street and Clanton Road which is where there is a signalized crosswalk, it comes in right at .5 maybe .51 just depending on how you might measure that out. I believe the petitioner mentioned they took their measurement from Blairhill Road crossing Tryon Street there, which is really a mid-block crossing unsignalized, unstriped. That gets it below the half-mile. So, there is some just general concern.

Also, that UC right on the fridge of that half-mile walk, however, you want to measure it, it's just is kind of pushing the envelope a bit as to what we felt was appropriate in this location. So, I just wanted to give you a little bit of background on the difference between those two and where the staff's recommendation was coming from. CC district would be completely appropriate. A TOD district is appropriate in this area. I think it's just the difference between the intensity of UC versus CC. so, we will be happy to take any questions following the petitioner's presentation.

**Keith MacVean 100 North Tryon Street, Suite 4600** said I am with Moore Van Allen assisting Providence Group Capital. With me, tonight representing the petitioner is J. Q. Freeman, Eric Nichols, and James Cole and they are available to answer any questions as well. We do want to thank Dave and his staff for working with us and listening to us as to why we were requesting TOD-UC for this site. We are disappointed they can't support it, but we'd like to explain our rational as to why we think UC is appropriate here.

As Dave mentioned the site is zoned I-1, we are requesting TOD-UC. The site is currently developed with a mix of older commercial uses. It's directly adjacent to a new Fire Station 43. The surrounding property around the Scaleybark Station, Clanton Road and South Tryon, and Clanton Road and South Boulevard is quickly transitioning from these older commercial uses that were developed quite some time ago to transit-supportive uses.

So, the area plan as Dave mentioned were near the Scaleybark Station Area Plan. Sites is located there at the intersection of Clanton Road and South Tryon. We are within a half-mile walk to the Scaleybark Station. There are several different ways how to measure that, but we do meet that criterion. The site is also in a corridor as defined by the station area plan and the Centers, Corridors and Wedges growth framework. We also have easy access to not only rapid transit, but a number of bus routes along South Tryon Street and Clanton Road and South Boulevard. Those have easy access to a full interchange at I-77 making this type of area really an appropriate location for more intense transit-supportive uses as envisioned by the Scaleybark Plan and transit plan for the area. The adjacent zoning are TOD, B-1, BD, and the adjacent uses are commercial uses. The area is transitioning from older uses to transit-oriented uses. We are not displacing existing residential uses. We're not really close to residential uses in terms of existing single-family neighborhoods.

We wanted to show you this slide which is a picture of the realignment rezoning that was done in 2019 by the City to implement the new transit-oriented development districts that



were developed starting in 2017. As you can see the colors here are what they represent. The purple represents the use of the TOD-UC and the light color represents the use of the TOD-NC district. The orange colors and the brown colors represent the use of the TOD-CC and the TOD-TR zoning. I think if you look at, and this is just a snapshot of that alignment rezoning, as you move south along South Boulevard and down the rapid transit station corridor or the Blue Line Corridor what you see as part of the alignment rezoning is that starting at the Scaleybark Station the implementation petition in 2019 solely used TOD-TR and TOD-CC district. We believe that was the case because at that time even though it wasn't that long ago there wasn't really a market demand. There wasn't a feeling that the demand for more intense uses that the TOD-UC and NC district allow could be supportive of the station south of the New Bern Station. To that effect, I'd like to just read a little statement from the purpose statement of the CC district. Its lower maximum building heights and less stringent design standards are intended to accommodate and encourage transit-oriented and transit-supportive development in transit station areas where there is not a current market demand for more intense development. That's the purpose statement of the CC district and that's what was used by the alignment rezoning for the station south of New Bern. So, there isn't at this station and as you go down the corridor and also if you look at stations going north toward the University area, once you get outside of the intown station, the use of the UC and NC district is not there because the market wasn't felt to be the point where it can support those more intense uses. That's not the case anymore. The transit-supportive development has grown along the south corridor. You saw tonight there are a number of transit-supportive rezonings at the Woodlawn Station, at the Tyvola Station. That's transit-supportive development moving further south along the corridor as we envision by the stationary plans that were done. Stations like Woodlawn and Tyvola are seeing that. There are four transit-supportive districts. We think there is a market and a need for all of those districts at these other stations south of New Bern. You see at the Scaleybark Station the only purple spot is a parcel that was actually owned by the City right next to the station. Everything else was TOD-CC and TOD-TR.

So, this is a snapshot again of the area. The R site is here in blue. The yellow and the yellow site on this map and red notations no current announced and current active rezonings in this area are transit-supportive development. As well as current cases that are changing the zoning from TOD-CC or TOD-TR to TOD-UC and TOD-NC. I said five there is actually four including our site. So, that's a mistake on mine. We include this slide just to show the level of activity that's now occurring at the Scaleybark Station. It's quickly moving in a direction that maybe five or seven years is where South End and the east-west station was or the New Bern Station. As those areas intensified they went from residential transit-supportive development to office. That's what's starting to occur here at Scaleybark.

So, from our perspective as the area evolves so should the zoning. Again, the marketplace has shown the station area south of New Bern can support transit development. The City has four districts that support transit zoning, but only two were used at this station. We would like to start to use the third and the fourth district as have

other petitioners that have filed a petition in this area are trying to do as well. The uses allowed in the TOD zoning district allows for a variety of transit-oriented developments in different forms of intensities. That's what the urban center district will allow us to do here. A different type of development. Yes, taller as Dave has announced. Taller by utilizing the bonus provisions versus being capped at 130 feet. We believe there's a marketplace here and this is a prime location for more intense transit-supportive uses that the TOD-UC zoning district will allow.

So, just in response to some of the rationale in the staff analyses in terms of why not in its current form. Again, I think our main point is that as part of the implementation of the transit-supportive development districts along the south corridor, and when that was done the market just didn't seem to think the market demand for the intensity that UC allow us wasn't really there, but it is there now. One of the concerns is the application of the TOD-UC zoning district is reserved for areas of higher intensity, and this area's context is moderate. Our response would be all the transit stations started out with moderate or low intensity uses and evolved to higher intensity uses as the market for transit-supportive development matured. This location and the surrounded parcel will become a high-intensity location when rezoned to TOD in a similar way to the Uptown stations evolved. The use of the TOD in the maximum height allowed by the bonus provision allowed under that district would create an incongruent harsh transition. The current land uses were developed 50 years ago are single-story surface parking commercial uses. They are transitioning to more intense transit supportive. While you are in that transition there's always going to be some incongruence between the current form of development and the proposed form of development. The land use goals for the location such as this is are not to maintain the status quo but to promote change.

Another concern, the subject site at an area adjacent to districts including TOD and TOD-CC business [inaudible], and the nearest TOD zoning is closer to the station. That's true but how did we get there? We got there because of the zoning that was done in 2019 and didn't anticipate the demand for the use of TOD-UC district at this station. The market has moved faster than anticipated and is showing the ability to utilize all of the TOD districts at this location. Like I mentioned before, there are other petitions that are using these districts and will be coming before you later this year. The old industrial zoning is no longer the appropriate zoning for this area. We need to move to transit-supportive.

In rebuttal, Mr. Pettine said the staff's recommendation I think we stand by it pretty firmly. I think we understand the points made by Mr. MacVean. I think one of the key phrases that was left out of the purpose statement of that district for the UC is and for the CC is that the CC district is intended for a station generally further from Uptown. So, the idea isn't necessarily to just have the same level of intensity along our transit line from Uptown all the way to the end of it. There is a transition that the staff looked at through the alignment and that the staff continues to look at. Again, the application of TOD isn't inappropriate here. It's just the district of UC versus CC I think does create a pretty stark contrast to what we feel is appropriate currently and what we think the long term would probably be the ongoing type of development. The rezonings we saw earlier this evening

are also within a half-mile of the station. There is a little bit further down. All suggesting a TOD-CC district. So, I feel like that's still an appropriate district and I think that's where the staff has been since the pre-submittal back in December and continues to be in that same spot. So, we will be happy to talk about it offline and if you need, but that's all I would have to comment on about it at this point.

**Councilmember Winston** said so I guess this might be a question for Mr. Jaiyeoba. For the TOD districts, one thing that we said with them is that they are living documents. So, it's kind of what we said with the whole UDO and implementation of the Comp 2040 Plan as well. We did the realignment because we needed to relook at the land use along the Blue Line in general. Now, that was two years ago I think. What is the time at this point in life? A lot has changed so much so that they are trying to give this area a whole new neighborhood name and [inaudible], and whatever folks want to call it now. What is the probability or possibility that we need to perhaps relook at certain areas because I do agree with some of what Mr. MacVean was saying is that I don't think anybody anticipated the type of growth that was happening down at Scaleybark? In fact, we finished a very complicated land swap or land use deal with Pappas Properties around that same time where we were very frustrated that things had not developed there as we anticipated. All of a sudden it seems like since then, obviously we are putting in brand new water mains to deal with the type of volume that is developing around there. So, what is the probability and possibility that we might need to look at this area a little differently using this living document of TOD kind of zoning districts down there?

**Taiwo Jaiyeoba, Assistant City Manager/Planning Director** said I do know that right now part of our UDO is taking another look at our TOD ordinance that was adopted by Council in 2017. So, we did mention at that time that was the first step, but as part of the UDO, we are going to take another look at that. That does not necessarily change the classification we have right now in terms of TOD-UC, CC, or NC or TR for transition. But we might take a look at the density of the uses that's allowed as part of the UDO. That's actually in the UDO in the first draft that we issued.

Mr. Winston said are you saying that we need to look at the actual districts and not necessarily how those districts are distributed on the map?

Mr. Jaiyeoba said maybe not necessarily the district themselves as in whether they'd be neighborhood center, or community center, or urban center, but the degree of intensity in each one of those districts.

Mr. Winston said this could be for Mr. Jaiyeoba or Mr. Pettine. What would be the negative effect of the common good if this was zoned TOD-UC? What would be the detriment?

Mr. Pettine said I think the general detriment for what we felt was just a detriment in the context in intensity development. We don't have that UC district this far outside of the general station area at Scaleybark. We just have that one piece. We have another a little bit further in on Clanton Road closer to South Boulevard. We view the transition away

from those station areas as stepping down in the height and intensity level of development rather than getting out further away and kind of going up, and then dropping back down pretty drastically next door. Which is an NC zoning district or behind it with TR district. So, I think that's where we don't necessarily see a detriment from a public standpoint versus just a context standpoint and an intensity standpoint in terms of how much that height could be a difference from 130 to 300 is a pretty stark contrast. I think that's where we start to get into just the general design and form of those areas as you transition away you shouldn't necessarily go up in intensity and then drop back down to what is one of the less intense districts with NC as you get to Clanton Road and I-77. So, I think that's where we see the big disconnect is just the contextual difference in design.

Mr. Winston said Mr. MacVean you can answer this I guess, but I don't if you have all of the information, but you mentioned that other developers are trying to use this district more in this area. What do you mean by that and or Mr. Jaiyeoba or Mr. Pettine, what does he mean by that? What is happening around there right now for other potential developers? What should be the anticipated coming down the line?

Mr. Pettine said we've got one petition like I said that should be coming forward over the next month or so by the same group, Providence Capital 202-147. That's CC to UC. Again, it is much closer into that .3-mile distance to Scaleybark, and I think what we also see with this one is that height difference on Clanton Road and Tryon Street. We can get to the 130 that UC would allow as a base, but we would also use the bonus system to get there. Which would provide those public benefits back through different types of elements in that bonus structure. I think we see that 130 height being reasonable, but I think the staff sees it as let's get there and kind of stop there, but also get the public benefit of that through CC versus UC starting at 130, then maybe using the bonus structure. If we do then that really gets to that big difference in height. So, I don't see a ton of other from pre-submittal meetings that we have. I haven't really recalled any meetings other than the ones we've got in place right now that are going to UC. We've done some recent rezonings to CC and NC, but I haven't had any direct conversations on other parcels in this immediate area wanting to up zone out of that CC district.

Mr. Winston said Mr. MacVean are you able to comment any further about that?

Mr. MacVean said I think Dave mentioned it. There is a rezoning less than, I don't know the exact difference but at 200 South Clanton Road. There is a site that is being zoned to an urban center, also, by Providence Capital Group. The other sites in the area are going from TOD-TR to TOD-NC and those sites are clearly more than a half-mile and not able to use the urban center district. My point by mentioning those other rezonings is just that, there is a market demand for those other districts that allow additional height and more intensity with greater design standards. This site at Clanton Road and South Tryon is one of those sites, it meets the criteria. I understand what Dave is saying, yes we are further from the station, but a lot of developers have used the zoning that's in place now and have developed. So, now it's not going to be as orderly as if the zoning had gone in from the beginning and there is nothing wrong with having height further from the station as

long as it meets the criteria of being in close proximity to this station. Which we are and we are not displacing or encroaching on the single-family area. We are encroaching an area that's older commercial uses, warehouse distribution uses. Yes, it's going to be a difference in development form, but there is always going to be a difference in the development form when you are transitioning like this area is. Understand why the concern is, it's not about utilizing the bonus system. It's about utilizing the bonus system to do more than 130 feet. It's the cap at 130 and what's allowed in urban center, admittedly it is 300 feet, that's a big difference. That's a lot more intense development that could occur here. A greater improvement to the tax base. The ability to do office and residential or office development versus residential development is what this district represents. I know J. Q. and Eric are online too and maybe they have a response to that question as well.

**J.Q. Freeman, 300 West Summit Avenue, Suite 250** said I appreciate your time and hearing us, and I want to thank the staff for working with us on this as well. Just with respect to the half-mile distance from the Scaleybark Station, if you go slightly north and on the east side of South Boulevard there are parcels that were zoned to TOD-UC that are the same distance just under a half-mile from the New Bern Station zoned TOD-UC through the City's rezoning and they're on single-family residential parcels and in the immediate proximity of existing single-family residential. It's difficult for us to understand why this parcel being where it's located in an industrial area today with the existing zoning permitting industrial uses and the market demand for higher intensity and arguably the highest intensity of transit-oriented zoning and it not being supported. So, it's just a little challenging for us to understand.

**Councilmember Ajmera** said Mr. Pettine, can you just, this could be part of our follow-up report if you don't have the answer right now, I'm trying to remember all of this intensity for TOD-CC, for urban center, for neighborhood center, for TR, I just would like to understand that more in depths.

Mr. Pettines said in regard to building height or just in general?

Ms. Ajmera said the use and the intensity.

Mr. Pettines said we can provide that in a follow-up.

**Councilmember Driggs** said I just want to say that it sounds to me as if the staff is trying to uphold the rules that we put in place very recently. If their examples of other exceptions to those rules and that's the reason we should make this exception, then I have to question the rules. So, I just want to back Dave up a little bit on this. I'm willing to study it further and take into account what the petitioner is saying about these circumstances. I just have a concern about setting a precedent so soon after we adopted these policies for setting them aside on a case-to-case basis. Thank you.

**Councilmember Eiselt** said I agree with what Mr. Driggs just said. I would also say that they can use the bonus to get the height that they want. Then that's the way to go right now. Then if the area starts developing differently, then future Councils will go back and revisit that, but we've got to look at these things as to what it does to the existing plan. We can't look at it just for this one piece of land. Especially when you're going along the Light Rail and often you've got this [inaudible] development. So, what we do here has to apply to the whole area and for right now the opportunity is for the developer to take advantage of the bonus height to get what they want with the density. So, I'm hesitant to your point to make a switch like that when we have just gone through this exercise and approved it.

Mr. Winston said I think part of the question here and I'm looking at the UC zone is what the petitioner is saying is that it fits the definition of the policies, but we are not understanding the staff recommendation. It seems to fit the words that are on the paper of the recommendation. That's what I'm hearing from the petitioner and that's what when I read it and compare that part of the question here, to Ms. Eiselt's point. I agree with Ms. Eiselt's point. I don't know if that's what we are actually dealing with in changing the rules.

Mr. Pettine said I think the clarification on that is that the distance to the station doesn't guarantee the outcome of zoning district as laid out in the TOD ordinance. It specifically says that may be applied within that half-mile distance or the mile distance, whatever that may be. So, that walking distance doesn't guarantee the outcome of UC or CC. That's just a stick to kind of measure does this makes sense. Does it fall within that? I could be applied and does that application of it make sense based on what's going on around the parcel as a whole and then the general area. So, I think that's maybe some of where that challenge may be in that discussion. That half-mile again isn't a guaranteed outcome. It's a starting point to say this could be applied here. How does it fit the general context of the area? That's where the staff looked at and said that we are not quite to that level of intensity here yet. The CC district seems to be the better fit from our perspective on it.

**Councilmember Phipps** said the newest station stop that we are about to add on the South End line, what stop is that? Where is that stop located?

Mr. Pettine said that's further up around Rampart Street, Hawkins Street area.

Mr. Phipps said so what classification would that be? Would that be CC or UC or what?

Mr. Pettine said the station won't have any direct impact us rezoning any properties, but we have seen a lot of the districts along Tryon Street, and Donovan Street, Distribution Street taking advantage of the addition of that station on Rampart Street and up zoning. Again, that's a much closer in station area to Uptown as described in the TOD ordinance. So, we have seen that the addition of the Rampart Station changes some of that area along Tryon Street, but it doesn't have the staff go in and make that change. That change has happened based on market-driven things and applications for rezonings in that corridor.

Motion was made by Councilmember Driggs, seconded by Councilmember Newton, and carried unanimously to close the hearing.

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### ADJOURNMENT

Motion was made by Councilmember Egleston, seconded by Councilmember Newton, and carried unanimously to adjourn.

The meeting was adjourned at 10:04 p.m.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

Length of Meeting: 5 Hours, 43 Minutes  
Minutes Completed: December 07, 2021