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| <u>Mayor Anthony Foxx</u> | <u>Mayor Pro-Tem Patrick Cannon</u> |
| John Autry                | Michael D. Barnes                   |
| Warren Cooksey            | Andy Dulin                          |
| Claire Fallon             | David Howard                        |
| Patsy Kinsey              | LaWana Mayfield                     |
| James E. Mitchell, Jr.    | Beth Pickering                      |

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## ***CITY COUNCIL ZONING AGENDA***

### ***Monday, October 15, 2012***

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

**6:00PM – Zoning Meeting**  
**Meeting Chamber**

### ***DINNER MEETING***

- ***Review of Agenda – Tammie Keplinger***
- ***Area plan status & text amendment update – Debra Campbell***

**ALL REZONING PETITIONS MAY BE VIEWED ON THE WEB AT**  
**[www.rezoning.org](http://www.rezoning.org)**

### Zoning Districts

- **B-1** – neighborhood business district
- **B-2** – general business district
- **B-1SCD** – business shopping center district
- **BD** – distributive business district
- **BP** – business park district
- **CC** – commercial center district
- **I-1** – light industrial district
- **I-2** – general industrial district
- **INST** – institutional district
- **MUDD** – mixed use development district
- **MX-1** – mixed use district
- **MX-2** – mixed use district
- **MX-3** – mixed use district
- **NS** – neighborhood services district
- **O-1** – office district
- **O-2** – office district
- **O-3** – office district
- **R-3** – single-family residential – up to 3 dwelling units per acre (dua)
- **R-4** – single-family residential – up to 4 dua
- **R-5** – single-family residential – up to 5 dua
- **R-6** – single-family residential – up to 6 dua
- **R-8** – single-family residential – up to 8 dua
- **R-8MF** – multi-family residential – up to 8 dua
- **R-12MF** – multi-family residential – up to 12 dua
- **R-17MF** – multi-family residential – up to 17 dua
- **R-22MF** – multi-family residential – up to 22 dua
- **R-43MF** – multi-family residential – up to 43 dua
- **R-MH** – residential manufactured housing
- **RE-1** – research district
- **RE-2** – research district
- **RE-3** – research district
- **TOD** – transit oriented development
- **TOD-E** – transit oriented development – employment
- **TOD-EO** – transit oriented development – employment - optional
- **TOD-M** – transit oriented development – mixed use
- **TOD-MO** – transit oriented development – mixed use – optional
- **TOD-R** – transit oriented development – residential
- **TOD-RO** – transit oriented development – residential - optional
- **U-I** – urban industrial district
- **UMUD** – uptown mixed use district
- **UMUD-O** – uptown mixed use district - optional
- **UR-1** – urban residential
- **UR-2** – urban residential
- **UR-3** – urban residential
- **UR-C** – urban residential - commercial

### Overlay Districts

- **CR/LWW** – Catawba River / Lake Wylie watershed
- **CR/LWWCA** – Catawba River / Lake Wylie watershed – critical area
- **CR/LWWPA** – Catawba River / Lake Wylie watershed – protected area
- **HD-O** – historic district overlay
- **HW** – hazardous waste overlay
- **LNW** – Lake Norman watershed
- **LNWCA** – Lake Norman watershed – critical area
- **LNWPA** – Lake Norman watershed – protected area
- **LLWW** – Lower Lake Wylie watershed
- **LLWWCA** – Lower Lake Wylie watershed – critical area
- **LLWWPA** – Lower Lake Wylie watershed – protected area
- **MILW** – Mountain Island Lake watershed
- **MILWCA** – Mountain Island Lake watershed – critical area
- **MILWPA** – Mountain Island Lake watershed – protected area
- **MH-** – manufactured home overlay
- **PED** – pedestrian overlay district
- **PED-O** – pedestrian overlay district – optional
- **TS** – transit supportive overlay district

### Miscellaneous Acronyms

- **CD** – conditional
- **SPA** – site plan amendment

## DECISIONS

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| <p><b>Withdrawal</b></p> <p><b>Protest Insufficient</b></p>           | <p>1. <a href="#">Petition No. 2008-039</a> by <b>Charlotte-Mecklenburg Historic Landmarks Commission</b> for a change in zoning for approximately 1.55 acres located on the southeast corner of Providence Road and Alexander Road from R-3 to O-1(CD) 5-Year Vested Rights.</p> <p>This petition is found to be inconsistent with the South District and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>DENIAL</b> of this petition as the petitioner is requesting a withdrawal.</p> <p>Staff recommends withdrawal of this petition.</p> <p>Attachment 1</p>   |
|   | <p>2. <a href="#">Petition No. 2012-065</a> by <b>City of Charlotte</b> for a change in zoning for approximately 4.02 acres located on the north side of Central Avenue between Merry Oaks Road and Saint Andrews Home Place from R-4 and R-22MF to NS.</p> <p>This petition is found to be inconsistent with the Briar Creek/Woodland and Merry Oaks Small Area Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Designated an area along Merry Oaks Road for a neighborhood signage structure.</li> <li>2. Reduced the size of the primary structure from 16,500 square feet to 15,500 square feet.</li> <li>3. Added a note that commits to additional measures to enhance the chances for survival of several existing trees located on the site.</li> <li>4. Increased the number of existing trees that are committed to be preserved.</li> <li>5. Provided supplemental buffer in excess of a class "C" buffer along the residence located along the northern property line.</li> </ol> <p>Staff recommends approval of this petition.</p> <p>Attachment 2</p> |
| <p><b>Deferral (to January)</b></p>                                   | <p>3. <a href="#">Petition No. 2012-067B</a> by <b>Charlotte-Mecklenburg Planning Department</b> for a Text Amendment to the City of Charlotte Zoning Ordinance to:</p> <ul style="list-style-type: none"> <li>• allow duplex dwellings on R-3, R-4, R-5, and R-6 zoned lots with prescribed conditions; and</li> <li>• modify the prescribed conditions for duplex units located in the R-3, R-4, R-5, and R-6 zoning districts.</li> </ul> <p>The Zoning Committee voted unanimously to <b>DEFER</b> this petition until their December Zoning Committee meeting to be held on January 9, 2013.</p> <p>Attachment 3</p>   |
| <p><b>Deferral (to November)</b></p> <p><b>Protest Sufficient</b></p> | <p>4. <a href="#">Petition No. 2012-071</a> by <b>Lincoln Harris, LLC</b> for a change in zoning for approximately 2.08 acres located on the northwest corner of East Morehead Street and Kenilworth Avenue from O-2 to MUDD-O.</p> <p>The Zoning Committee voted 4-1 to <b>DEFER</b> this petition to the October 24, 2012 Zoning Committee meeting to allow the petitioner and the neighborhood to address the following items: 1) indicate measures to reduce the lighting impacts on the adjacent residential properties, 2) study the pedestrian circulation and resolve any conflicts with the exiting traffic of the drive through, and 3) specify the retail use will be restricted to a pharmacy.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 4</p>   |

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|  | <p>5. <u><a href="#">Petition No. 2012-072</a></u> by <b>E&amp;A Custom Builders, LLC</b> for a change in zoning for approximately 0.53 acres located on the south side of Warp Street between Donatello Avenue and Herrin Avenue from R-5 to UR-1(CD).</p> <p>This petition is found to be consistent with the North Charlotte Plan and the Transit Station Area Principles and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Installation of curb and gutter in a manner that matches the existing curb line established on the south side of Warp Street.</li> <li>2. Installation of a five-foot sidewalk along the site frontage at least four feet from the back of curb.</li> <li>3. Adjusted proposed setback in order to ensure consistency with existing structures on Warp Street.</li> <li>4. Extended driveways along the side of proposed structures to allow tandem parking (to accommodate a minimum of two automobiles). The petitioner has further extended the driveway on the westernmost lot proposed in order to allow for an option to add a garage in the rear.</li> </ol> <p>Staff recommends approval of this petition.</p> <p>Attachment 5</p> |
|  | <p>6. <u><a href="#">Petition No. 2012-076</a></u> by <b>Christ Evangelical Lutheran Church of Charlotte</b> for a change in zoning for approximately 1.66 acres located on the northeast corner of the intersection of Providence Road and Mammoth Oaks Drive from INST(CD) to B-1(CD):</p> <p>This petition is found to be inconsistent with the South District Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 6</p>  |
|  | <p>7. <u><a href="#">Petition No. 2012-077</a></u> by <b>Johnson C. Smith University</b> for a change in zoning for approximately 3.11 acres located on the east side of Beatties Ford Road near the intersection of Rozzelles Ferry Road, West Trade Street and Beatties Ford Road from R-22MF(PED) to R-22MF(PED-O).</p> <p>This petition is found to be consistent with the West End Land Use and Pedscape Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 7</p>  |
|  | <p>8. <u><a href="#">Petition No. 2012-078</a></u> by <b>Queen City Health Investors, LLC</b> for a change in zoning for approximately 9.02 acres located on the north side of South Tryon Street between Wrights Ferry Road and Greybriar Forest Lane from R-3 to INST(CD).</p> <p>This petition is found to be inconsistent with the Steele Creek Area Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Modified the throat of the driveways so they remain perpendicular to South Tryon Street past the 40-foot setback.</li> </ol>  |

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| <p><b>2012-078</b><br/><b>continued</b></p> | <ol style="list-style-type: none"> <li>2. Provided a curb bulb-out at the existing NC 49 directional crossover intersection at Wright's Ferry Road to accommodate the northbound to southbound U-turn movements.</li> <li>3. Provided a continuous right turn lane extending from Wright's Ferry Road to Graybriar Forest Lane.</li> <li>4. Added a note regarding the sidewalk connection to Wright's Ferry Road which reads: "Developer reserves the right to request a variance from the Zoning Board of Adjustment to waive sidewalk connection to Wright's Ferry Road if sidewalk easement is not granted".</li> </ol> <p>Staff recommends approval of this petition.</p> <p>Attachment 8</p>  |
|   | <p>9. <u><b>Petition No. 2012-079</b></u> by <b>TAG Ventures, LLC</b> for a MUDD-O site plan amendment, for approximately 0.86 acres located on the north side of West Mallard Creek Church Road between Claude Freeman Drive and David Taylor Drive.</p> <p>This petition is found to be consistent with the University Research Park Area Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Added a request for an optional provision to increase the maximum square footage allowed for a dry cleaning establishment within the MUDD zoning district from 4,500 square feet to 6,000 square feet.</li> <li>2. Removed signage from the building elevations.</li> </ol> <p>Staff recommends approval of this petition.</p> <p>Attachment 9</p> |
|   | <p>10. <u><b>Petition No. 2012-080</b></u> by <b>H. Heath &amp; Elizabeth B. Alexander</b> for a change in zoning for approximately 0.29 acres located along North Alexander Street between East 34th Street and East 35th Street from R-5 to R-8(CD).</p> <p>This petition is found to be consistent with the North Charlotte Plan and the Transit Station Area Principles and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modification:</p> <ol style="list-style-type: none"> <li>1. The petitioner added a note stating the new house will be bungalow style, wood or hardi siding.</li> </ol> <p>Staff recommends approval of this petition.</p> <p>Attachment 10</p>   |
|   | <p>11. <u><b>Petition No. 2012-081</b></u> by <b>NRI Communities/Charlotte, LLC</b> for a CC site plan amendment, for approximately 7.55 acres located on the west side of Johnston Road between North Community House Road and Porterfield Road.</p> <p>This petition is found to be consistent with the South District Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. The existing five-foot sidewalk and ten-foot planting strip along Johnston Road have been shown and labeled.</li> <li>2. Sidewalk and planting strip have been reflected to the northern property boundary along Johnston Road.</li> </ol>  |

2012-081  
continued

3. Sheet RZ-2 has been deleted and applicable notes from previous petition 2007-103 have been placed on Sheet RZ-1.
4. Addressed Park and Recreation comments by specifying the approximate width and location of the greenway easement.
5. Amended Note 2b under the heading of "Permitted Uses and Development Area Limitation" to state that drive-in or drive-through lanes/windows as an accessory use will not be permitted on the site.
6. Amended Note 6d under the heading of "Environmental Features and Greenway Easement" as follows:
  - a. To specify that the minimum width of the easement shall be 60 feet;
  - b. To specify that the easement will connect from the northerly end of the site at Johnston Road to the southern end of the site;
  - c. To state that the final, precise location and width of the easement shall be determined at a future time depending upon site constraints, other existing public and private easements, public improvements, structures, etc.;
  - d. To state that the easement shall be provided prior to the issuance of a certificate of occupancy in association with the proposed hotel or within two years of the approval of this site plan amendment, whichever occurs first.
7. Added Note 6e under the heading of "Environmental Features and Greenway Easement", which states the petitioner will not be required to provide the greenway easement if the existing easements (e.g. CMUD, Duke Power) do not allow the Petitioner to grant the proposed greenway easement.
8. Amended Note 6d to refer to a greenway easement as opposed to a greenway path easement.
9. Amended labels on Sheet RZ-1.0 to state greenway easement as opposed to greenway access easement.

Staff recommends approval of this petition.

Attachment 11

**12. Petition No. 2012-083 by Charlotte-Mecklenburg Planning Department** for a Text Amendment to the City of Charlotte Zoning Ordinance to 1) clarify that outdoor fresh produce stands are allowed as a principal use in all zoning districts except residential, office and institutional and 2) add prescribed conditions if a permanent structure is utilized for outdoor fresh produce stands when they are the principal use in all zoning districts, except residential, office and institutional.

This petition is found to be consistent with adopted policies and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition.

Staff recommends approval of this petition.

Attachment 12

**12A. Petition No. 2012-068 by Sterling Fox Group, LLC** for a change in zoning for approximately 1.72 acres located on the northeast corner at the intersection of Ballantyne Commons Parkway and Rea Road from B-1SCD to NS.

This petition is found to be consistent with the *South District Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

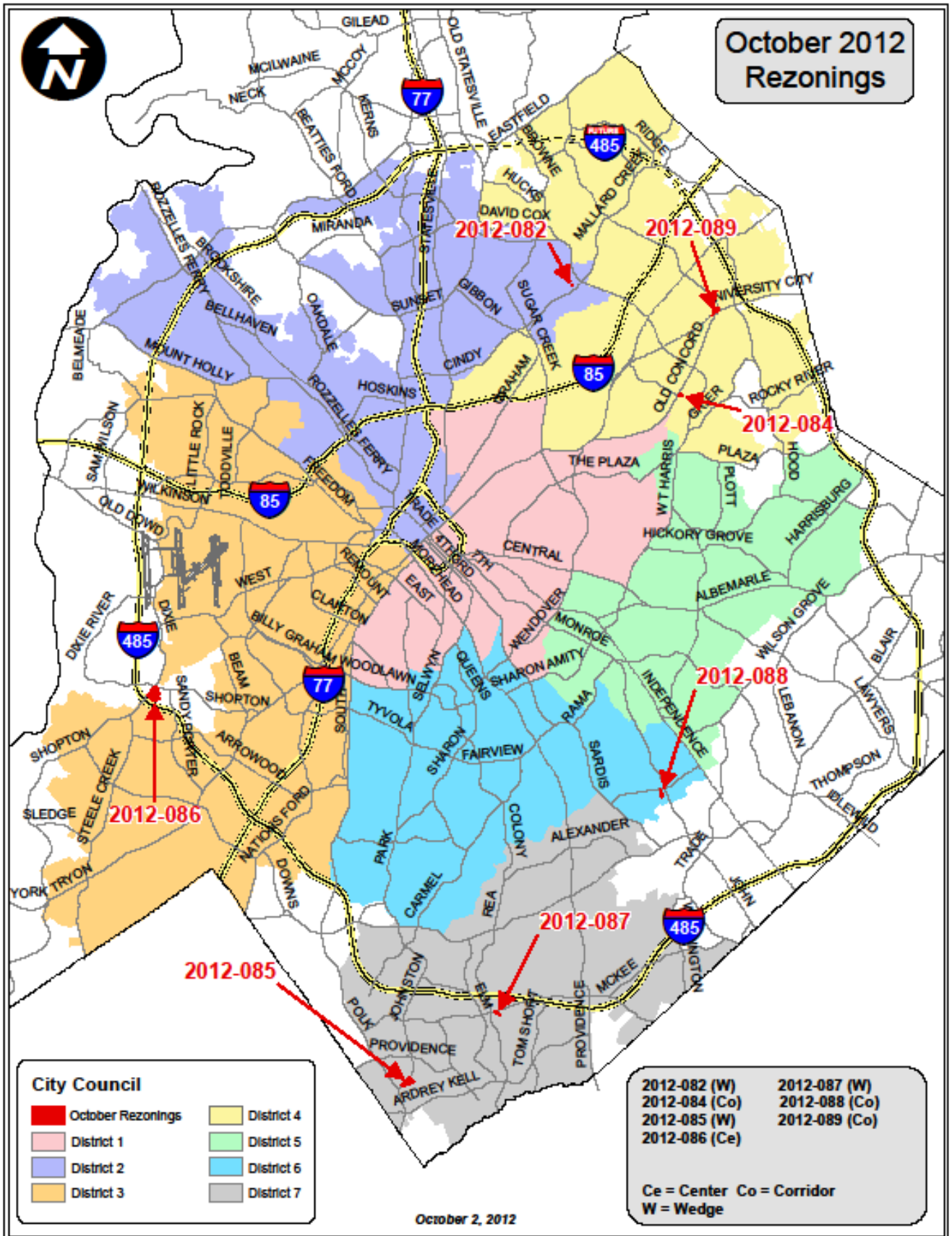
1. Possible tree save areas have been identified on the site.
2. A note has been added that any trees removed to install the retaining wall on the eastern portion of the site will be replaced.
3. A note has been added that the proposed parking on the eastern portion of the site will be screened with trees and shrubs to screen parking from the adjacent multi-family development and public street.
4. A note has been added that large expanses of wall exceeding 20-feet in length will be

avoided through the introduction of articulated facades, using various materials such as brick and other masonry products, stone, different colors of paint, glass windows, water table, and/or soldier course.

5. The proposed building materials have been labeled on the site plan.
6. A note has been added that the "signage" shown on the site plan is not included in the approval of the rezoning site plan and that all signs will comply with the ordinance standards.
7. Possible locations of storm water detention areas have been show on the site plan.
8. The existing and proposed sidewalks and planting strips along all public streets have been identified on the site plan.
9. A note has been added that no drive thru service windows will be allowed on the subject parcel

Staff recommends approval of this petition.

Attachment 12A





## HEARINGS

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| <p><b>Continued from September</b></p> | <p><b>13. <a href="#">Petition No. 2012-075</a> by Charlotte-Mecklenburg Planning Department</b> for a Text Amendment to the City of Charlotte Zoning Ordinance to add a new definition for “electronic game operations”, and allow it as a new use with prescribed conditions in the UR-C, B-1, B-2, NS, MUDD, UMUD, CC, TOD-E, TOD-M, and I-1 zoning districts.</p> <p>Staff recommends approval of this petition.</p> <p>Attachment 13</p> |
| <p><b>Deferral (to November)</b></p>   | <p><b>14. <a href="#">Petition No. 2012-082</a> by Derita American Legion Post 345</b> for a O-1(CD) site plan amendment, for approximately 1.20 acres located on the east side of Baucom Road between Mallard Creek Road and Brathay Court.</p> <p>A Community Meeting has not been held for this petition therefore it may not go to hearing and should be <b>DEFERRED</b> to November 12, 2012.</p> <p>Attachment 14</p>                   |
|  | <p><b>15. <a href="#">Petition No. 2012-084</a> by Frank and Nancy Newton</b> for a change in zoning for approximately 2.72 acres located on the south side of Rocky River Road at the intersection of Rocky River Road and Newell Farm Road near Old Concord Road from O-1(CD) to B-1(CD).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 15</p>                                 |
|  | <p><b>16. <a href="#">Petition No. 2012-085</a> by Childress Klein Properties</b> for a change in zoning for approximately 18.8 acres located on the southeast corner at the intersection of Johnston Road and Marvin Road from R-3 to UR-2(CD).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 16</p>  |
|  | <p><b>17. <a href="#">Petition No. 2012-086</a> by East Group Properties, LP</b> for a change in zoning for approximately 43.29 acres located on the southeast corner of the intersection of Steele Creek Road and Shopton Road from I-1(CD) and R-3 to I-1(CD) SPA and I-1(CD).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 17</p>  |
|  | <p><b>18. <a href="#">Petition No. 2012-087</a> by AEA, LLC</b> for a change in zoning for approximately 3.56 acres located on the south side of Ballantyne Commons Parkway between Rea Road and Williams Pond Lane from R-3 to O-1(CD).</p> <p>Staff recommends approval of this petition upon resolution of outstanding issues.</p> <p>Attachment 18</p>  |
|  | <p><b>19. <a href="#">Petition No. 2012-088</a> by PIRHL Developers, LLC</b> for a NS site plan amendment, for approximately 5.09 acres located on the north side of Nolley Court near the intersection of Nolley Court and Galleria Boulevard.</p> <p>Staff recommends approval of this petition upon resolution of the outstanding issue.</p> <p>Attachment 19</p>  |

20. [Petition No. 2012-089](#) by **University Investment Group, LLC** for a MUDD(CD) site plan amendment, for approximately 6.0 acres located on the northwest corner at the intersection of University City Boulevard and East Mallard Creek Church Road.

Staff recommends approval of this petition.

Attachment 20