

June 17, 1974
Minute Book 60 - Page 261

The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, June 17, 1974, in the Board Room of the Education Center, at 8:00 o'clock p.m., with Mayor John M. Belk presiding, and Councilmembers Fred D. Alexander, Kenneth R. Harris, Pat Locke, Milton Short, Neil C. Williams and Joe D. Withrow present.

ABSENT: Councilman James B. Whittington was absent at the beginning of the meeting.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and as a separate body, held its public hearings on the zoning petitions, with Chairman Tate and Commissioners Boyce, Finley, Jolly, Kratt, Royal and Turner present.

ABSENT: Commissioners Drummond, Ervin and Ross.

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INVOCATION.

The invocation was given by Councilman Fred D. Alexander.

MINUTES APPROVED.

Upon motion of Councilwoman Locke, seconded by Councilman Short, and unanimously carried, the minutes of the meetings on June 3, June 10 and the adjourned meeting on June 11, 1974, were approved as submitted.

HEARING ON PETITIONS NO. 74-28 BY DAVID E. FULLER, SR., NO. 74-29 BY GAM CHEE AND LEE LAI MING JUNG, AND NO. 74-30 BY SUE H. VAN LANDINGHAM FOR ZONING CHANGES.

The scheduled hearings were held on the following petitions:

(a) Petition No. 74-28 by David E. Fuller, Sr. for a change in zoning from R-15 to O-15 of a tract of land fronting 696 feet on the south side of Park Road and 245 feet on the west side of Park Road, at the intersection with Fairview Road, and also fronting 236 feet on the east side of Closeburn Road, beginning 315 feet south of Park Road, on which a protest petition was filed and found sufficient to invoke the 3/4 Rule requiring six affirmative votes of the Mayor and City Council in order to rezone the property

(b) Petition No. 74-29 by Gam Chee and Lee Lai Ming Jung for a change in zoning from R-15 to O-15 of a tract of land fronting 286 feet on the west side of Park Road, beginning 245 feet south of Park Road at the intersection with Fairview Road, on which a protest petition was filed and was not sufficient to invoke the 3/4 Rule requiring six affirmative votes of the Mayor and City Council in order to rezone the property.

(c) Petition No. 74-30 by Sue H. Van LANDINGHAM for a change in zoning from R-15 to O-15 of a tract of land fronting 115 feet on the west side of Park Road beginning 531 feet south of Park Road at the intersection with Fairview Road, on which a protest petition was filed and was not sufficient to invoke the 3/4 Rule requiring six affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Bryant, Assistant Planning Director, stated he will present the three petitions together as they are three related tracts of land that are adjacent to each other, and will be represented by common counsel as far as the presentation of the petition requests.

June 17, 1974
Minute Book 60 - Page 262

He stated the area involved in these requests is Park Road at its intersection with Fairview Road, and are three tracts of land located at the intersection. The largest tract consists of property with frontage on the portion of Park Road as it comes away from Closeburn Road; also the portion of Park Road coming down after it makes its turn at this location. It is a rather unusual shaped parcel of land that comes back in the direction of Closeburn and involves frontage on Closeburn Road.

He stated the second parcel is the Jung property and is the middle part of the property and consists of property with frontage on Park Road. The third parcel, which is the Van Landingham tract, and is the smallest of the three, is the southern most portion of the property as it continues along Park Road.

Mr. Bryant stated the Fuller tract is vacant as far as the corner portion at the intersection of Park and Fairview; there is one house that fronts on the westerly portion of the property on Park Road; and there is also a single family residence on it as does the Van Landingham tract.

The pattern to the west and to the south of the property is predominately single family usage; Closeburn Road is a street which is entirely developed with single family residences; there is a duplex at the intersection of Closeburn and Park; then there is a solid pattern of single family residential usage along Closeburn and around Glenkirk Road and continuing south. Across Park Road to the north of the subject property there are also single family homes. Eastward, on Fairview Road and to the east of Park Road, the pattern of land use completely changes. It becomes a solid pattern of office use and office activity. A bank is located at the corner of Park and Fairview, the Blythe Building is behind it and slightly to the east of that; the new building being added there is located on Park Road. To the rear, coming south along Park Road, there is a large area that will be developed for parking usage for the building installed at that point. Across Fairview Road on the north side, there is the Park Fairview Building and then the Celanese Building site. Along Fairview Road, farther east, the office pattern continues with Eastern Airlines and then south of Park Road is the new South Executive Park Building.

He stated at this point Park Road rather well divides the residential uses to the west from the office uses to the east along Fairview Road.

Mr. Bryant stated the zoning pattern reflects the use pattern. The subject properties are all zoned R-15; to the north, across Park Road, there is single family zoning which is R-12. There is single family zoning solid to the west of this portion of Park Road, and to the north. There is a solid pattern of O-15 zoning which begins and proceeds easterly in the direction of Sharon Road along Fairview. The request would change these properties from a single family orientation to the office zoning adjacent to the east.

Mr. Reginald Hamel, attorney with the firm of Hamel, Cannon and Hamel, stated he along with Harold Jones of Ferebee Walters and Associates will speak in behalf of the petitioners. He stated there are three separate petitions being joined together for purposes of disposing of them, and discussing them more simply. On only one of the petitions is the protest sufficient to invoke the majority rule; and that is the Fuller property. On the other two the protests are insufficient to invoke the majority rule.

Mr. Hamel stated they are here to ask Council to embrace the concept of leaving a buffer zone between the heavy office use and the residential use across the street; and at the same time not sticking with the Park Road division. He passed around some photographs which he explained. He called attention to the American Bank and Trust Branch Bank located on Fairview Road, and stated the subject property is down Fairview where it becomes Park Road, and on the left is a sign which says Fairview Plaza. That is the intersection of the 90 degree turn on Park Road; and the subject property is just across there. Behind the American Building is the Blythe Building and across the street to the right is the Internal Revenue Service building. He stated you do not have a four-way intersection so you cannot argue that all four corners should be business or office; but you have a "T" intersection, and to the extent that argument is analogous it can be made.

June 17, 1974
Minute Book 60 - Page 263

He stated the Fuller property is in the corner of Park Road and Park Road intersection. The plan Mr. James will show eliminates any traffic problems; it has a buffer zone, and is designed to protect and preserve the residential character of the neighborhood. He stated the Fuller property is approximately six acres of land; the Jung property is approximately three or a little under; and the third tract is the Van Landingham property. Since the filing of these three petitions, Mr. Brooks who owns the tract which he pointed out on the map has filed a petition seeking the same change which they are seeking; that petition is set for a hearing he believes in July. It is their understanding that Mr. Starnes who owns property across Park Road is not in opposition and does not oppose the rezoning; that Mr. Watts who owns property in the area does not object, and they understand the next property owner has no opposition.

Mr. James stated an economic analysis has been made to determine the best use of the property; their answer was that it should be for an office park; they said a motel on that site would be economically feasible and a combination of high rise or medium rise apartments also.

Mr. James presented a plan and stated they have approached it with a medium rise building of eight stories on the corner; a three story building as you come back down toward town on Park Road, and on the property which is essentially the Jung property and Van Landingham they have a five story additional office building. The first office is 115,000 square feet; the next one is 17,000 square feet, and the third one is 7,500 square feet. Under two of the buildings is a parking deck. There are trees around the edge of the property and they propose that it be left as a buffer on Park Road and the parking garage, with the site excavated to permit parking below. Then they will have the parking deck above with landscaping. Along the Closeburn Road area they have not provided any access to the parking; there will be a berm and planting screen to make the cars invisible as far as people on ground level on the other side; there will be no access from Closeburn as far as traffic is concern. They do have a major entrance off Park Road which goes up to the upper level or on the ground level. There will be three entrances off Park Road on the other side.

Councilman Withrow stated there was some talk about petitioners showing pictures of what they plan to build, and Council was going to get legislation to require the petitioner to build what is presented to Council. Mr. James replied he knows the owner of the property would like to build the plans. Councilman Withrow stated multi-family can be built in office zoning as well as offices; that Council sees a lot of beautiful pictures, and then when it comes to construction it is not like it was presented.

Mr. George Godwin, speaking in opposition, stated because this is being received as one project with three pieces of property, as he understands the rule to invoke the 3/4 Rule, it takes 20 percent of the ownership for one side of the property. Obviously there is no way of getting 20 percent on the property in the middle. He asked if they can request Council to invoke the 3/4 Rule on all the property as it is being treated as one entity? Mr. Underhill, City Attorney replied these are three separate petitions, consolidated for convenience here tonight in the way of presenting them, because of their close proximity to one another. The state law says that in order to invoke the 3/4 protest rule, you must have owners of at least 20 percent of the area, within 100 feet of the area to be rezoned. In the case of the Jung parcel, the only one to invoke the rule would have been the property owner across Park Road. Each petition has to be considered on its own, and the rule must be applied to each petition. In examining the protest petitions, only the first petition, 74-28 because of the signatures of Mr. Otto and Mr. Godwin, was sufficient to invoke the rule as to the first petition; but not sufficient because of the lack of proximity to the petitioned areas for the others. Mr. Godwin asked if Council at its discretion can invoke the 3/4 Rule on all of it by motion? Mr. Underhill replied they can vote any way they want to on it; but they are only legally bound, in order to rezone the property encompassed by 74-28 to at least six out of the eight affirmative votes of the Mayor and Council. On the others the property can be rezoned by a simple majority - that is four votes.

June 17, 1974
Minute Book 60 - Page 264

Mr. Godwin stated he is a neighbor in this community. That they are very sympathetic to the property owners and what they find themselves in. He stated the problem is that this is a corner; in Charlotte when you have two corners and one is developed, you ask what is going to be put on the other corner that has the highest and best economic use. That if what was shown earlier was built it would be something that everybody in Charlotte could be proud of, except the immediate neighborhood. That is an exercise in eyewash. If you had the money that was spent on eyewash in architectural drawings and plans presented, and never, never built - that may be built and it may be the full intentions of the people to build it. But on the other hand, the zoning once changed does not necessarily require them to build it, and it could be sold for a greater profit and passed on. If you had the money spent on that kind of eyewash you would not need taxes.

Mr. Godwin stated the ordinance points out in concept that the change of zoning to just make it a higher economic use for the landowner, if that is the sole reason, it should not be considered in a zoning petition. That he thinks that is a major consideration factor here. The traffic and congestion area around SouthPark, and particularly around the Park Road turns, and the need for the Park Road Extension, and the extents at which the new plan and the planning elements have gone to further limit the growth of the south side of Charlotte by consideration of implementation of sewer referendums and sewer connections control illustrates that this area has more traffic than it knows what to do with. This corner has one of the highest traffic counts in Charlotte today, and it needs to be relieved. A development on this corner would tend to add to the traffic congestion.

He stated they live in a vest pocket community contiguous to a major urban area and provides a residential neighborhood, a quality of people and children and dogs and cats that you cannot find in hardly any other place in the city. To take this area and start upon it a development process which future petitioners will erode, erode and erode until this becomes an East Independence Plaza, a Park Road Development around the Park Road Shopping Center. This is a major consideration and they ask Council and the Planning Commission to think long and hard upon it.

He passed around pictures for viewing and asked that they be left with the Planning Commission for their review. He stated the interior neighborhood will be affected - not so much the corner property as they agree they have their problems. There are some 40 odd families in the area. Their major concern is if the zoning request is permitted it will begin a stripping out process that will not stop until it gets to Park Road Shopping Center, and will not stop the other way until it gets half way down to Archdale Road, and there are over 200 residents in that area who will be grossly affected by this developing and stripping out process, which this is the key to. He stated they think there is considerable land available. Within 3000 foot radius there is over 225 acres available for existing office and office utilization. There is 137 acres of B-1 which also allows offices, and there are four acres zoned O-6.

Mr. Godwin stated the real question is are we going to have good planning for Charlotte in the years as we go ahead. If so, are you going to take a major stand on this particular piece of property. That the people who bought this property knew what they were buying when they got into it. If you close the door and say this is going to be residential then the prices will adjust, and the land utilization will adjust, and people will build what the land will support, and it will develop into the plan. He stated the homes in the area average \$50, \$60 and \$70 thousand and some on up. He filed a petition containing over 106 signatures in opposition to the rezoning; and stated they of this neighborhood do not want offices on this corner.

June 17, 1974
Minute Book 60 - Page 265

Also speaking in opposition were Mr. Dexter Yager, 2551 Glenkirk Road; Ms. Elsie Byrum, 5628 Closeburn Road; Mr. David R. Eaton, 5640 Glenkirk Road, Mr. Jack Petrey, Mr. Paul Otto, 5708 Closeburn Road, and Mr. John Lippard, 5700 Closeburn Road. During the discussion the residents asked if the area is going to be built up in office buildings why was the 124 acres park built in their backyards. Mr. Eaton stated the addition of the offices will add to the pollution of the new lake that has been built; that he has lived out there four years and has watched the lake turn into a mud hole because of the run-off from the parking areas of the office buildings. It was also pointed out that the construction of the offices will depreciate the property values of the homes on Closeburn Road.

Mayor Belk requested the City Manager to have someone check into the problem of the run-off from the parking lot causing the creek behind Mr. Eaton to turn into mud and affecting the lake.

Mr. Otto stated the parking lot of the proposed buildings would be within 12 feet of his bedroom. Mr. Lippard stated he lives 103 feet from the proposed parking lot; and he would like for the members of Council and the Planning Commission to come out and inspect the area. That the area has been developed with the least damage to the environment than any section in the City of Charlotte. They have virgin forest there. This rezoning would damage the interior of the development out there.

Council decision was deferred for a recommendation of the Planning Commission.

COUNCILMAN WHITTINGTON COMES INTO MEETING.

Councilman Whittington came into the meeting at this time and was present for the remainder of the session.

COUNCILMAN ALEXANDER EXCUSED FROM PARTICIPATION IN THE FOLLOWING PETITION.

Councilman Short moved that Councilman Alexander be excused from participating in Petition No. 74-24 due to a conflict of interest. The motion was seconded by Councilman Withrow, and carried unanimously.

HEARING ON PETITION NO. 74-24 BY GOLDEN EAGLE INDUSTRIES, INC. FOR A CHANGE IN ZONING FROM R-12MF TO B-2 OF A TRACT OF LAND SOUTHWEST OF INDEPENDENCE BOULEVARD NORTHWEST OF VILLAGE LAKE DRIVE AND ACROSS FROM MARGARET WALLACE ROAD.

The public hearing was held on the subject petition.

The Assistant Planning Director stated this is an interior location of land; it does not have actual frontage on a road; it represents an addition to property which does have a tie out to Independence Boulevard and Village Lake Drive. Village Lake Drive is a new road that has been constructed from Independence Boulevard to Monroe Road, and is being developed with multi-family and apartment units. The subject property is southwest of Independence Boulevard and almost due north of Village Lake Drive, and is immediately surrounded by vacant property. The nearest uses to it are on Independence Boulevard where there is a garage and a combination service station with a lounge that is almost opposite the intersection of Margaret Wallace Road. Across Independence Boulevard are several auto agencies. Along Village Lake Drive, near its intersection with Independence Boulevard, there is a golf driving range and two apartment areas - East Lake Village and Villa East.

June 17, 1974
Minute Book 60 - Page 266

Mr. Bryant stated the property is bounded on two sides - the Independence Boulevard side - by existing B-2 zoning. At present that B-2 zoning extends back 400 feet from the Boulevard. In effect, the request is to extend the depth of the B-2 zoning from Independence Boulevard back an additional 220 feet to make a little more regular the boundary line between the existing business zoning and the multi-family as it now exists. Multi-family zoning begins at the point and proceeds westerly along Village Lake Drive all the way over to Monroe Road. There is one small area of single family R-12 zoning adjoining the subject property immediately to the north. Basically the property is adjacent to B-2 zoning on one side and single family zoning on the other.

Mayor Belk asked if the only ingress and egress is by the B-2? Mr. Bryant replied that is correct.

Mr. Ray Bradley, Attorney for the petitioner, stated Golden Eagle Industries is a subsidiary of C. D. Spangler Construction Company. He stated the shape of the property is very significant as it relates to the property at the rear. That Golden Eagle Industries owns the property to the rear of the subject property, and is developing an apartment complex. In appraising the expansion of that development the experts at Spangler had to consider the effect of attempting to expand the residential development into this little island that goes into this B-2 zoning. They came to the conclusion that it is untenable to expect to have a very good marketing situation in this case. They have now come up with tentative plans for the shopping center that is anticipated on this piece of property. Since Golden Eagle Industries now own no frontage on Independence Boulevard it will be necessary to have an entrance way into this shopping center off Village Lake Drive, which makes for an unusual situation for developing into a shopping center. In order to make this a good plan, both esthetically and for construction purposes it is obvious that it should be set up in some sort of a "L" formation to provide the necessary malls and walkways, which will almost absolutely necessitate the use of this additional piece of property to make it come out right.

Mr. Bradley stated it will require a great deal of parking area not only to meet the physical needs but to meet the zoning requirements for the project they plan. He called attention to the conceptual plan which he passed around and stated that around the entire perimeter is a great deal of planned landscaping and beautifying. The area is undeveloped at present and is very heavily wooded so it will provide a natural screen between the B-2 area and the multi-family zoning to the rear. He stated they have two things. The inability to utilize the 2.8 acres of land as a part of the residential development because of the shape and location. The other feature is that they now have this plan which obviously needs to utilize this to make it a good plan. This is a part of a very large tract of land, most of it still undeveloped. Now is the time to clear up the zoning of the tract in order to provide proper future development of this tract of land.

Councilman Whittington asked the plans for the property if the zoning is changed? Mr. Bradley replied it will be a shopping center. Councilman Short asked if he is planning a shopping center that is not oriented to Independence Boulevard? Mr. Bradley replied that is correct. Councilman Short stated while nothing is built in there between this property and Independence Boulevard, someone else owns it and could build something. That Spangler is planning to orient this to the development behind to the rear. That it is essentially a small shopping center for the benefit of that development. Mr. Bradley replied that is the concept the architects gave him as the plan proposal.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

June 17, 1974
Minute Book 60 - Page 267

COUNCILMAN ALEXANDER RETURNS TO MEETING.

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

HEARING ON PETITION NO. 74-25 BY DEWEY TILLMAN, JR. ET AL, FOR A CHANGE IN ZONING FROM R-6MFH TO O-6 OF PROPERTY AT THE NORTHEAST CORNER OF WEST BOULEVARD AND WICKFORD PLACE.

The public hearing was held on the subject petition.

Mr. Bryant, Assistant Planning Director, stated this property consists of several lots located on West Boulevard. The subject property is occupied by three houses, and a house that is being used for an office purpose, and is a use not allowed under the present zoning, and the Inspection Department has given notice on it. The adjoining land uses are practically all of a residential nature. Across Wickford Place is a combination of single family houses and several duplexes. Directly across West Boulevard are single family houses and a rest home on one lot, a beauty shop in a residence and several multi-family structures and then out to Tryon Street there is considerable business usage. Going on out West Boulevard there is a solid pattern of residential uses out to Cliffwood opposite the school. Behind the property on Kingston there is also residential uses.

He stated the subject property is zoned R-6MFH; and that is the beginning point of multi-family zoning which begins at the edge of the subject property and extends westerly along West Boulevard. Adjoining the property on South Tryon Street side is an existing office zoning on three lots, and then begins the general business pattern along South Tryon Street. Generally speaking there is a transitional zoning pattern between business along North Tryon Street, then office zoning, and then multi-family zoning.

Councilman Short asked if there is any R-6MFH usage within the R-6MFH area? Mr. Bryant replied there is not.

Mr. Bill Cannon, Attorney with Cannon and Mangum, stated there are five lots involved in the petition. He stated directly across the street is R-6MFH zoning and beyond that is a lot of O-6 and B-2 towards Tryon Street. The subject property is the entire area in this particular block that is zoned R-6MFH. It is cut off from the rest of the property in the area zoned R-6MFH by West Boulevard and Wickford Place. This small tract could not be developed for high density residential; new single family development is not likely in the area as the tract is small; and yet the effective zoning on the property is O-6. All the lots in the subject tract have houses on them. The present zoning freezes R-6MFH use.

He stated one of the petitioners, Mr. Tillman, purchased the corner lot over a year ago being informed by an interested realtor that the entire block was zoned O-6. Based on this understanding he renovated the house he purchased for purposes of operating his business. He spent over \$10,000 in the renovation of the house, and moved in and operated his small construction and contracting business. There are now no construction vehicles that use the property, as his operation is strictly by sub-contract. He does operate the house. The visit from the zoning inspector precipitated his participation in this zoning petition.

Councilman Short stated four or give of the neighbors have gotten together and decided to bring this petition; they all live there? Mr. Cannon replied that is right. Councilman Short asked if there is a developer looming in the picture? Mr. Cannon replied not to Mr. Tillman's knowledge; this is strictly and obviously an issue with Mr. Tillman.

June 17, 1974
Minute Book 60 - Page 268

Councilman Withrow asked if this is one of the houses that caught on fire recently? Mr. Cannon replied there was a fire bomb on the front porch several months ago that did not damage the property severely.

Councilman Whittington stated if these four lots are rezoned from R-6MFH to O-6 then the zoning would be O-6 and B-2 all the way to Wickford Place? Mr. Cannon replied that is right.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 74-26 BY CAROLINA JEEP, INC. ET AL, FOR A CHANGE IN ZONING FROM R-9 TO B-2 OF LAND NORTHEAST OF INDEPENDENCE BOULEVARD AND EXTENDING NORTHWEST FROM MARGARET WALLACE ROAD.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director stated this property is located on the north side of Independence Boulevard and is vacant; this is a strip of land running parallel to Independence Boulevard and has some frontage on Margaret Wallace Road. To the east of the property is a large vacant tract of land; across Margaret Wallace Road is one mobile home in front of the house across Campbell's Creek. The subject property is principally surrounded by vacant property except for the Toyota Agency and the Dotson Agency.

The present B-2 zoning extends back 400 feet from the roadway, and this is a request to extend the depth of the business zoning along and adjacent to Independence Boulevard another 200 feet, and then branching out to a larger tract as it gets near Campbell Creek. The adjoining property is zoned B-2 all the way out to Independence Boulevard and beyond; beginning with the subject tract 200 feet in the direction of Campbell Creek there is a solid pattern of R-9 zoning.

Mr. Charles Knox, Attorney with Wardlow, Knox and Knox, stated he is representing the four petitioners on this tract of land. The town side where the Dotson Store is, is owned by Dorothy McMillan and her husband, Tom McMillan, who live on Carmel and Providence Road; the next tract is owned by National Facilities and just beyond that and further out of town is a tract owned by Walker Jordan and Bill Scott; and beyond that at the intersection of Margaret Wallace Road is the property owned by Robert Ham Barber, who is the Carolina Jeep man. The Dotson, owned by the McMillans and operated by Terry Dixon, and the Toyota facilities are now in operation. Ham Barber has the Carolina Jeep location underway; he has done a lot of filling and improving the property at Margaret Wallace Road, and will be undertaking construction right away. He stated there are three automobile facilities there. That he knows from experience that automobile facilities almost needs the depth of 600 feet. The City Chevrolet, Bill Beck Pontiac and the others are all zoned 600 feet back from the Boulevard. He stated the reason for the larger area, the little bulb, on the end of the strip is because that is the property of Mr. Barber and if they just ask for 600 all the way down, it would have left Mr. Barber as a little island, so they are asking that his property be rezoned to B-2 all the way back. At the back of his property is the creek, Piedmont Natural Gas line, a city sewer and a natural boundary between his property and any property across the creek.

Councilman Whittington asked if there are any residences between Independence and the creek? Mr. Knox replied there is none; all the property is vacant land. Mr. Jordan and Mr. Scott own the property behind their properties; Steve Fellos and some of his friends own property behind the National Facilities property, and Bill Allen Enterprises owns the property directly behind the McMillan property. These people tell him they are not opposed to this at all.

June 17, 1974
Minute Book 60 - Page 269

Mr. Knox stated property of National Facilities will be sold to some people from Texas called Handi-City. They propose to build a multi-purpose store. It will be a rather substantial investment and will have all sorts of hardware materials and do it yourself types of material. It would bring in a fair number of customers, and if the construction of this could be back from Independence it can accommodate the customers in front with adequate parking, and adequate driveways, rather than having a 400 foot strip developed in single purpose units which would necessitate a lot more driveways, and additional traffic problems. With a 600 foot depth, they feel they can provide adequate shields at the rear.

Mayor Belk asked how many entrances and exits will they have on this 2,000 feet? Mr. Knox replied four. Mayor Belk stated Independence is so clogged up now, and rather than clogging it again with four entrances is it possible to have a subsidiary road that would come off into the single light to come out, to be able to control the traffic. Or could they donate enough land for another strip out on Independence so you can get some through traffic. That he is talking about a 60 foot strip.

Mr. Knox stated there will be access to Margaret Wallace Road to the Jeep facility. There will be four entrances and exits in the area. Mayor Belk stated that will just jam up Independence Boulevard.

Councilman Whittington asked how far they are away from Idlewild Road? Mr. Knox replied it is about three miles.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 74-27 BY NORTH CAROLINA NATIONAL BANK TO CONSIDER GRANTING CONDITIONAL OFF-STREET PARKING APPROVAL FOR A LOT NOW ZONED R-6MF LOCATED ON THE NORTHEAST SIDE OF HERRIN AVENUE, NORTHWEST OF THE PLAZA.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised this is a request for conditional use approval for off-street parking purposes of property already zoned a residential classification, and which is allowed by the ordinance on special consideration. This is a parcel of land already being used for parking purposes. He stated there was no problem until recently when the bank prepared to expand and enlarge the building. At that point the parking became a necessary part of the facility, and before a building permit can be issued, recognition has to be given to the validity of this as a legitimate parking lot site.

The area that is involved is in the Plaza area. The subject property is a small parcel of land and is located facing Herrin Avenue, and is part of a larger tract owned by the North Carolina National Bank which comes all the way out to the Plaza. To the northwest in the direction of Holt Avenue there are two multi-family structures; across the street is the parking lot for the Plaza Baptist Church; beyond that on Herrin Avenue there is single family use.

There is B-1 zoning which extends back to the beginning of the subject lot; then that lot is zoned R-6MF; then begins the R-6 area, which was changed a short time ago from multi-family to single family as a result of the request filed by the North Charlotte Association. That area is now all zoned O-6 to the rear of the subject property.

Mr. Bryant pointed out from a map the location of the Plaza, Herrin Avenue, and the location of the existing bank structure. He stated the addition to the bank will add a drive-in teller window at the rear of the present structure. There is a plan underway to enlarge the bank and to do some additional work related to bringing traffic in from The Plaza, and into the drive-in window for safety purposes. This will give more drive space to line the cars up than it would if it had to come directly out onto Herrin Avenue.

June 17, 1974
Minute Book 60 - Page 270

The request is to recognize an existing parking facility which is already used with a legitimate conditional approval to make it a facility that can be counted legally as part of the bank facility.

No one spoke for or against the petition.

Council decision was deferred for a recommendation of the Planning Commission.

ORDINANCE NO. 210-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY AT THE NORTHWESTERLY CORNER OF KESWICK AVENUE AND BANCROFT STREET, ON PETITION OF ROBERT E. MASON EQUIPMENT COMPANY.

Councilman Whittington moved adoption of the subject ordinance changing the zoning from O-6 to Distributive-Business (D-B) rather than the requested I-2, as recommended by the Planning Commission. The motion was seconded by Councilman Short, and carried unanimously.

The ordinance is recoreed in full in Ordinance Book 21, at Page 72.

PETITION NO. 74-14 BY F. T. LYERLY, ET AL, FOR A CHANGE IN ZONING FROM O-6 TO B-1 OF PROPERTY AT THE NORTHEASTERLY CORNER OF EUCLID AVENUE AND EAST WORTHINGTON AVENUE, DENIED.

Motion was made by Councilwoman Locke, seconded by Councilman Short, and unanimously carried, denying subject zoning petition as recommended by the Planning Commission.

PETITION NO. 74-15 BY DONALD M. WIMBISH FOR A CHANGE IN ZONING OF PROPERTY AT THE NORTHEASTERLY CORNER OF HICKORY GROVE-NEWELL ROAD AND ROBINSON CHURCH ROAD, DENIED.

Councilman Short moved to deny the subject petition for a change in zoning from R-15 to B-2 as recommended by the Planning Commission, which motion was seconded by Councilman Withrow, and carried unanimously.

PETITION NO. 74-17 BY FAYE M. SHAHEEN AND ELRY L. MINCEY FOR A CHANGE IN ZONING FROM R-6MF TO B-1 OF LOTS ON THE SOUTH SIDE OF CENTRAL AVENUE BEGINNING AT THE EASTERLY CORNER OF CAROLYN DRIVE, DEFERRED.

Motion was made by Councilman Short, seconded by Councilman Whittington, and unanimously carried, to defer decision on the subject petition until the next meeting.

PETITION NO. 74-20 BY MARSHALL F. CROUCH FOR A CHANGE IN ZONING OF A TRACT OF LAND ON THE WEST SIDE OF RANDOLPH ROAD, NORTH OF RUTLEDGE AVENUE, DENIED.

Council was advised that a protest sufficient to invoke the 3/4 Rule had been filed.

Councilman Withrow moved that the subject petition be denied. The motion was seconded by Councilwoman Locke.

Councilman Williams stated normally he is reluctant to vote contrary to the Planning Commission. In this case the Planning Commission recommended that the petition be approved. However, he is going to vote to disapprove this one. This was not a unanimous opinion by the Planning Commission; it was a split decision. That he believes the reasons of the minority appeals to him more than the majority in this particular case.

June 17, 1974
Minute Book 60 - Page 271

Councilman Withrow stated sometime ago Council voted to let the Exxon Service Station expand, and an office structure to go in this vicinity. That he believes at that time, Council promised the people in the area that it would not allow zoning of this sort further than this property. That is one reason he is voting to disapprove this petition.

The vote was taken on the motion to deny and carried as follows:

YEAS: Councilmembers Withrow, Locke, Alexander, Harris, Short, Whittington and Williams and Mayor Belk.

NAYS: None.

COUNCILMAN WITHROW EXCUSED FROM PARTICIPATING IN DECISION ON THE FOLLOWING ORDINANCE.

Councilman Harris moved that Councilman Withrow be excused from participating in the decision on the following ordinance due to a conflict in interest. The motion was seconded by Councilman Whittington, and carried unanimously.

ORDINANCE NO. 211-Z GRANTING CONDITIONAL APPROVAL TO PROPERTY ZONED R-12 LOCATED WEST OF RANDOLPH ROAD AT ITS INTERESECTION WITH BILLINGSLEY ROAD, FOR RECREATIONAL PURPOSES (TENNIS FACILITY), ON PETITION OF E. C. GRIFFITH COMPANY.

Mr. Bryant, Assistant Planning Director, stated this property is located to the south of Randolph Road, near Billingsley Road, and is separated from Randolph by about 300 feet and represents a request to place on that property a tennis facility, both indoor and outdoor. This type of activity is allowed as a conditional use in a residential zoning.

Mr. Bryant stated the Planning Commission in making a favorable recommendation on the petition stated several factors they were concerned about, and he would like Council to take note of, and be aware of as action is taken on the request.

He stated some of this property is getting very close to Briar Creek, and therefore in the flood plain area located along Briar Creek. They have ascertained that the structure itself as shown on the plan is not within the flood plain area, and there is no problems from that standpoint. They would like to ask that the portion of the property closest to Briar Creek where some of the outdoor tennis courts will be located have no fill on that portion of the property. Filling at this location could change the water flow and impede the water flow, and place the problem of flooding downstream a little more evident. One of the conditions placed by the Planning Commission was that there be no fill on that portion of the property near Briar Creek. Another condition is that a street is going to be necessary to serve this property, a street coming off Randolph Road. He stated they would like to have the plan amended to reflect the location of that street so they will know exactly where it is. Finally, the plan itself did not show the full extent of the property. There was a corner of the property that was left out of the site plan. They would like to have that plan amended to show the full extent of the property, and the use that will be made of that portion.

Mr. Bryant stated he has been in conversation with the petitioner several times, and the architect is hard at work making these changes on the plans, and they have assured him the plan will reflect these conditions. He stated if Council is favorable in the direction of approving this plan, he would like to have these conditions included in the action.

Mayor Belk stated he would like to recommend to Council and to the Planning Commission that the creek be protected. If there is any change to be made that the owners face this responsibility before getting into the problems we have had on the other areas of the creek.

June 17, 1974
Minute Book 60 - Page 272

Councilman Whittington asked if Billingsley Road will continue across Randolph Road into this complex. Mr. Bryant replied that is correct.

Councilman Whittington moved adoption of the subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Williams.

Councilman Harris asked how we can make sure that these three items are carried out? Mr. Bryant replied this is a conditional use which involves a site plan which is approved as a part of these proceedings and becomes binding. The zoning administrator becomes responsible for seeing that the contents of the plan is carried out.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 21, at Page 73.

ORDINANCE NO. 212-2 AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY ON THE SOUTHEASTERLY SIDE OF YORK ROAD AT THE INTERSECTION WITH YORKMONT ROAD.

Motion was made by Councilman Whittington, seconded by Councilman Short, and unanimously carried, adopting the subject ordinance to change the zoning from B-1 to B-2 of 6.88 acres of land on the southeasterly side of York Road at the intersection with Yorkmont Road, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 21, at Page 74

ORDINANCE NO. 213-2 AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FROM B-2 TO I-2 ALONG THE EAST SIDE OF SEABOARD AIRLINE RAILROAD BETWEEN CENTRAL AVENUE AND INDEPENDENCE BOULEVARD, AS PETITIONED BY COLE MANUFACTURING COMPANY.

Councilman Alexander moved adoption of the subject petition as recommended by the Planning Commission, which motion was seconded by Councilman Whittington, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 21, at Page 75.


RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON MONDAY, JULY 15, 1974, ON PETITIONS FOR ZONING CHANGES.

Upon motion of Councilman Whittington, seconded by Councilman Harris, and unanimously carried, the subject resolution was adopted providing for public hearings on Monday, July 15, 1974, on Petitions No. 74-31 through 74-34 for zoning changes, at 2:00 o'clock p.m., in the Council Chamber, on the Second Floor of City Hall.

The resolution is recorded in full in Resolutions Book 10, at Page 10.

ADJOURNMENT.

Upon motion of Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, the meeting was adjourned.


Ruth Armstrong, City Clerk