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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, May 27, 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, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: None.

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, Ross, and Royal present.

ABSENT: Commissioners Drummond, Ervin and Turner.

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#### INVOCATION.

The invocation was given by Dr. Robert S. Hough, Minister of East Presbyterian Church.

#### MINUTES APPROVED.

Motion was made by Councilman Whittington, seconded by Councilman Short, and unanimously carried, approving the minutes of the last meeting, on May 13, 1974, as submitted.

#### CITY OF CHARLOTTE MERIT AWARD PRESENTED TO JOHN YATES, MAYOR OF THE CITY'S EXPLORER POST, 258.

Mr. Uly Ford, Public Works Department Administrative Assistant, and Advisor to the City's Explorer Post 258, stated the Post was organized during the summer of last year, and officially came into being in October, 1973. Since that time the post's activities have been very educational for the young men and women who are members. These activities have included such things as: Get Acquainted Social, Tours of several city facilities in operation, and many city staff people have given of their time to explain various city functions.

One of the major projects recently undertaken and completed was to coordinate in conjunction with the Board of Elections, voter registration in all ten public high schools. They were able to put into use some of the information they had received from a meeting with the Elections Board; they also feel this project would benefit the entire community.

Mr. Ford stated several of the young people have taken the lead in a number of their projects, often initiating the projects themselves. Tonight they would like to bring to Council's attention one of the outstanding individuals. He is the Mayor of the Post's City Council, John Yates. He then told of the many accomplishments of the young man.

After the introduction, Mayor Belk presented John with the City of Charlotte Merit Award for the distinguished work he has done, and the way he has represented the City, and stated he hopes he will continue in his fine leadership.

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HEARING ON PETITION NO. 74-15 BY DONALD M. WIMBISH FOR A CHANGE IN ZONING FROM R-15 TO B-1 OF 1.63 ACRES OF LAND AT THE NORTHEASTERLY CORNER OF HICKORY GROVE-NEWELL ROAD AND ROBINSON CHURCH ROAD.

The public hearing was held on the subject petition on which a protest petition was filed and found sufficient to invoke the 3/4 Rule requiring six (6) affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, advised this is a location that was recently annexed into the City, and represents one of the first areas to be considered from the areas recently annexed. The property is located at the northeast corner of Hickory Grove-Newell Road and has on it one single family residence; the area around it is predominately utilized for single family residential purposes; there are single family homes along Robinson Church Road; there is a single family residence on the other corner at the intersection of the two streets; on the north side, fronting on Newell-Hickory Grove Road is a day care facility. Other than that the total area is either vacant or utilized for single family purposes. On the edge of the map is the old Marco Engineering Facility located along the Norfolk-Southern Railroad; then there is the Norfolk-Southern Park area. Immediately around the property there is vacant property or single family uses.

Mr. Bryant stated there is single family residential zoning on Robinson Church Road and Newell-Hickory Grove Road side of the property; across the Newell-Hickory Grove Road is multi-family zoning R-9MF. The R-15 and R-9MF zoning completely surrounds the subject property.

Mr. Jack McNeil, representing the owners of the property, stated the sole purpose of the petition is a request to have a convenience type store on the property. The owners of the property now have a contract with Munford, Inc., an Atlanta placed Company, through their subsidiary, City Ice Delivery Company, to purchase the property. He passed around pictures showing the type of store that would be built, and stated it will be similar to Seven-Eleven Stores but will not have gasoline facilities. They feel the change will be of benefit to the surrounding area. At present there is an old residential house on the property in a run-down condition and is not occupied and this house will be removed. In addition there is a concrete block garage which will be removed, and this will improve the appearance of the lot.

The southern boundary of the property borders on Robinson Church Road when there is an embankment; that embankment will be graded down and cars going in a westerly direction on Robinson Church Road will have a better view from the Hickory Grove Road. The safety feature is prominent in this change. The property immediately to the north is used for a day care center, and is segregated from the subject property by a chain link fence. The property along the eastern portion is residential and is occupied by homeowners. The entire border on the eastern side is screened by a hedge which is thick and in most places ten feet high. The owners of the property are willing to trim the hedge and improve its appearance and it will serve as a buffer between this property and the residential property. The contract-purchaser intends to build only a convenience store on this property, and intends to do so as quickly as possible. Site plans have already been drawn up.

Mr. McNeil stated there has been a protest circulated and filed in opposition to this property. That he understands the protest was predicated on the belief that either a used car lot or a service station would go on this property. Nothing could be further from the truth he is advised by the property owners, and the potential buyer.

Mr. McNeil filed with the Clerk a signed statement from Mr. & Mrs. Hoyle Green who live on Grove Park Boulevard, north of the property that they did sign the protest petition predicated on that belief, and they now change their mind.

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He stated he has another petition with nine or ten signatures on it in favor of the petition, which he filed with the Clerk.

Councilman Whittington asked the setback requirement between this property and the single family homes on Robinson Church Road? Mr. Bryant replied it could be as little as ten feet. Councilman Harris asked the closest convenience store to this area? Mr. Bryant replied there is a convenience facility at the intersection of Hickory Grove-Newell and Hickory Grove Road which is 1/2 to 3/4 miles away; and then on Milton Road in a Shopping Center Area, is a facility that has been built and is ready to open, and it is about 1/2 mile away.

Councilman Short asked if Robinson Church Road is two lanes, and Mr. Bryant replied it is. Councilman Short asked how far this building would have to be set back? Mr. Bryant replied 20 feet would be the minimum. There is in existence a 60 foot right of way to the extent that it is physically possible to build a four lane roadway on a 60 foot right of way. Obviously a 60 foot right of way is not really a liberal amount for road widening; but it could be accomplished.

Mr. H. B. McGill stated he lives directly behind the subject property. That he and others are present to protest the rezoning of the property located at 7200 Hickory Grove Road, and Robinson Church Road from R-15 to B-1. He stated this came up about five years ago. Mr. McGill stated they have secured 77 signatures in protest to this rezoning. The adjoining property owners who did not sign seem to be holding out for financial gain and hope their property will be rezoned if this piece of property is rezoned. This would be a spot zone. All around the property is a nice residential area. Grove Park and Shenandoah Park each have entrances very close to 7200 Hickory Grove Road and Robinson Church Road. Rezoning to B-1 would be a danger to the safety. There are two convenience stores and two service stations 8/10 and one mile east of 7200 Hickory Grove-Newell Road, and one convenience store 1/10 of a mile south of the location; there is another one in a two mile radius at Newell-Hickory Grove Road and the Plaza Extension. They see no need for a fourth convenience store. Any business at this intersection would create more traffic, and make it more dangerous. He stated there is no business on this side of the railroad tracks except Marco Steele which was there before any zoning took place. They do not want the noise, traffic, traffic lights or signs which they feel this rezoning would bring on.

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

HEARING ON PETITION NO. 74-18 BY GILBERT PORTNOY FOR A CHANGE IN ZONING FROM R-12 TO I-1 OF PROPERTY ON THE WESTERLY SIDE OF RACINE AVENUE, BEGINNING 200' NORTH OF PICKWAY DRIVE.

The scheduled public hearing was held on the subject petition on which a protest petition was filed and found sufficient to invoke the 3/4 Rule requiring six (6) affirmative votes of the Mayor and City Council in order to rezone the property.

The Assistant Planning Director stated this request involved an area that was recently brought into the city. The property is located on Racine Avenue which is a parallel street to Derita Road, between the intersection of Derita Road and I-85, and the intersection of Derita Road and Sugar Creek Road; Racine Avenue parallels Derita Road and the Southern Railroad. The subject property is vacant, and is adjoined on the north by a truck leasing facility which is operated by the petitioner. To the south are single family residences located on Pickway Drive and there are single family homes on both sides of the street. Further north is a panel plant operated by the Godley Construction Company; there are several trucking company facilities such as Overland and Overnight. There are a number of non-residential uses along Derita Road. In the immediate vicinity of the subject property it is adjoined on one side by single family uses and the other side by the truck leasing agency.

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Mr. Bryant stated there is a large amount of industrial zoning in the area. To the north of the subject property is a larger area of I-2; across Racine along the railroad is a small area of I-1; to the south and along Pickway Drive is R-12 zoning; further south is a pattern of industrial zoning. The Pickway Area is sort of an exception to the industrial pattern that begins generally along Derita Road; across Derita Road on the southeast side is a pattern of B-2 zoning. The property in question has industrial zoning on one side of it, and residential zoning on the other side.

Mr. Wallace Osborne, Attorney for the petitioner, stated immediately across the road from the subject property is the Southern Railroad tracks which extend several miles in each direction on this road. On North Graham Street going out to this property, after leaving I-85, both sides of North Graham Street have a number of very heavy trucking companies. He stated his client runs a semi-trailer leasing business; they operate only from 8:30 A.M. to 5:30 P.M., five days a week; there is no midnight loading and unloading. It is a very neatly run and quiet business, and is not the type of business that will be a nuisance to anyone. There are also a number of businesses out there being run from the residences on Pickway Drive. He asked that this small piece of property be rezoned to I-1 to be used to park their trailers when not in use.

Councilman Whittington asked the name of the street that runs off Derita Road going into Allen Hills. Mr. Bryant replied that is Oneida Street, Councilman Whittington asked if there is a through street that will take you into Pickway? Mr. Bryant replied the map shows a dedicated right of way; but he does not believe it is open all the way through. Councilman Whittington asked how Mr. Osborne's client gets into his property? Mr. Bryant replied along Racine, and then Pickway actually crosses the railroad and comes into Derita; you would go off of Derita on Pickway, cross the railroad and then turn onto Racine. Councilman Whittington stated the single family residents get in and out the same way as this company does.

Mr. Paul Whitfield, Attorney for the opposition, stated Racine is the only access for the people who live along Pickway, and some of the houses face on Racine. He stated this same matter was heard in June, 1971 when it was offered for I-2. That Racine Street is the only access into the subdivision, off Derita Road across the railroad track, and the only thing you see are trees. This is the gateway to the Allen Hills subdivision. After you pass the point of the trees on the right, and you drive into Pickway you do not see anything but residential, vacant or rural use. All the lawns in the whole vicinity along Racine and Pickway are neatly cut; they keep their houses and yards neat; they are proud of the residential character of the area in which they live. The area is designated as R-12 and the residents have tried to keep it as such. They are not asking for anything other than what they have. To their knowledge the character of the area has not changed in the last three years; there is no other commercial area in the immediate vicinity, and there is no more residential development. He stated Section 23-4 of the Code says that R-12 is designed to maintain suitable environment for family living; that Section 23-7 says that industrial districts should be designed to protect the surrounding properties that are residential in character from undesirable aspects of the development.

It also says that whenever possible, these districts, meaning industrial districts, are to be separated from residential areas by natural or structural boundaries and so forth. He stated the idea is buffer the residential from industrial. At present there is not only a natural gateway to Pickway Drive, which is protected by the present zoning, but there is a natural buffer between these people who care about their community, and industrial development.

Councilman Williams asked how many citizens signed the protest; everyone on Pickway signed with one exception.

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

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HEARING ON PETITION NO. 74-20 BY MARSHALL F. CROUCH FOR A CHANGE IN ZONING FROM R-15 TO R-20MF OF A TRACT OF LAND FRONTING 614' ON THE WESTERLY SIDE OF RANDOLPH ROAD BEGINNING 313' NORTH OF RUTLEDGE AVENUE.

The public hearing was held on the subject petition on which a protest petition was filed and found sufficient to invoke the 3/4 Rule requiring six (6) affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, advised the property is located on Randolph Road and consists of approximately 4 acres with around 600 feet of frontage on Randolph Road, between the Hodgson and Rutledge intersection. It is for the most part vacant with one single family residence on the site; across Randolph Road there is under construction a nursing home; behind the property on Montclair Avenue, and along Rutledge Avenue is a solid pattern of single family use. A little further out Randolph Road is the Providence Baptist Church; coming back into the Sharon Amity area is the Cotswold Shopping Center area; there are some existing apartments which extend along Randolph Road, with an entrance onto Sharon Amity Road. Basically the area around the subject property is single family used with the exception of some property across the road being developed as a nursing home.

He stated there is a solid pattern of R-15 zoning all around the subject property, the nearest non-single family zoning is the R-12MF zoning with frontage on Randolph Road. In the vicinity of Sharon Amity Road is a sizable amount of business zoning to accommodate the shopping center.

Mr. Bryant stated this is an R-20MF request and is a conditional district which requires a plan of development. He stated the plan indicates a pattern of duplex structures to extend in a "U" shaped circulation configuration from Randolph Road, parallel and back into Randolph, with the duplex structures located along the circulation pattern. The recreational facilities, a pool and some play area, will be located in the portion of the property near Randolph Road, in an open setting in the interior of the property. The plan as submitted has 30 some dwelling units with a density factor of 6.4 units per acre. R-20MF allows up to about 8.5 per acre. This plan when submitted will have to be followed and therefore the 6.47 would become the governing factor.

Mr. John Ingle, Attorney for the petitioner, stated he has with him, Mr. Haynes of the Andrew Haynes and Company, the Developer who proposes to develop the property. He stated Mr. Crouch has requested the rezoning so that he could build a modest size condominium. There will be fifteen structures with two units in each for a total of 30 units on the five acre tract of land. Each unit will have approximately 1600 square feet of heated space, three bedrooms and two and half baths. The property is a heavily wooded area, and every attempt will be made to preserve the natural beauty of the area. The design is calculated to take advantage of that. A natural area of 40 feet will completely surround the project, and it will buffer it from everything. There will be one drive to serve the entire project.

Mr. Ingle stated they do not feel this property is suitable for single family purposes. There is about a hundred bed nursing home facility being built directly across Randolph Road from the property. Also Randolph Road will be widened to four lanes in the near future and it is presently heavily traveled and is an arterial road. They do not feel that anyone will buy these lots to build a home in the R-15 zoning. He stated they feel their project of Randolph Woods is pretty much in keeping with the comprehensive plan which is under discussion and will be before Council for official action. He stated their plan calls for approximately 6.4 units per acre; and the comprehensive plan calls for up to 6.0 unit per acre. They feel they are very close to what is contemplated by the comprehensive plan. Randolph Woods will only utilize 83% of the density allowed in an R-20MF zone. The units will sell for approximately \$50 to \$60 thousand per unit, or \$100 to \$120 thousand per structure. This is an owner-occupied area out there, and these units will be occupied by the owners. They will be frame construction, and will be very attractive and will blend in with the community.

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Mr. Ingle stated the property is virtually undeveloped at this time, and the owner is paying taxes on it. That it is unrealistic to expect him to continue to own the property and pay taxes, and it is not feasible to develop it as a single family development.

Mr. Haynes stated when they approached this problem they looked at it from two standpoints. One, they have a very nice piece of land to develop. One with a lot of trees that are well worth saving. Before doing any planning, they surveyed the land and the location of the trees and worked the site plan around as many of the trees as possible. Second, they approached the adjacent landowners as they had as much interest at stake in the rezoning as anyone. That he personally called on each adjacent landowner on Montclair and talked with them and to inform them that they intended to file a petition. During this time of talking with the people, they expressed their feelings about the property and how it should be used if it were to be developed. Some of the thoughts that came out of this, they incorporated into the plans. They wanted low density, so R-20MF was chosen; they went to two-family structures which reduced the size of the individual structure; they located the recreational area away from any of the adjoining property lines; they made it an ownership situation so the land values for the area will be maintained. The houses they designed will be comparable with the market value of the area.

Mr. Charles Myers a resident of Rutledge Avenue asked those present in the audience opposed to the rezoning of this property to stand; and a large group of people stood.

Mr. Clifford Kissiah stated he lives on Montclair Avenue and he explained how the names were gathered on the petition objecting to the rezoning. He stated there were no community meetings and no pressure to get the people to sign; they came to them wanting to sign the petitions. He filed a petition containing over 250 people opposing the rezoning of the property. He stated 95% of these people are homeowners, and live within two blocks of the subject property. That within 200 feet of the property there are 12 property owners who oppose the zoning change.

Also speaking in opposition were Mrs. Ed Boggsburg who stated their objection because of their concern with the traffic; Mr. D. J. Carter of Plum Nearly Road who expressed concern about whether Randolph Road would be turned into another Central Avenue, and Mr. Mock Justice of Providence Park who stated this is not the only tract of land that can be developed and if this is rezoned there will be no reason to deny the other tracts as they are brought up for rezoning.

Mr. Myers stated this change would affect the market value of their homes. Where property is changed from single family to multi-family the market value of the surrounding property does go down. The traffic already backs up from the Sharon Amity intersection for about one block, and the additional traffic coming from this proposed project would cause more cars to back up into the intersection.

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

HEARING ON PETITION NO. 74-14 BY F. T. LYERLY, ET AL, FOR A CHANGE IN ZONING FROM O-6 TO B-1 OF PROPERTY 200' X 150' AT THE NORTHEAST CORNER OF EUCLID AVENUE AND EAST WORTHINGTON AVENUE.

The scheduled public hearing was held on the subject petition.

The Assistant Planning Director stated this petition represents four separate lots located at the intersection of Euclid Avenue and Worthington Avenue. The property has three single family residences on it and one office structure. For the most part the other uses in the area are for residential purposes. A fuel oil distributorship is located to the rear of the subject property fronting on Euclid Avenue and is operating in conjunction with a house; at the corner of East Boulevard and Euclid Avenue are several neighborhood type uses.

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Mr. Bryant stated the subject property is zoned O-6 which was placed there for transitional purposes to separate the residential zoning which extends on into the Dilworth Area. He stated there is industrial zoning on one side, office zoning across Worthington, multi-family zoning across Euclid and to the rear is business zoning.

Mr. F. T. Lyerly stated this property is surrounded by business; the property next to it is already I-1; across the street is a T.V. business; it is increasingly difficult to get good tenants. When their last tenants moved out, she talked with the neighbors and asked their opinion of a business zone. They said they would welcome it.

Mrs. Lyerly stated she likes antiques, and would like to use their portion of the property for an antique shop. All of the subject property adjoins either industrial or business property.

Mr. Michael Finch of the Dilworth Community Development Association stated they oppose the petition for two reasons. One, the proposed change would be a spot rezoning outside the framework of a comprehensive plan. That Council has opposed such changes in the past, and they hope they will continue to do so in the future. Second, the proposed change would represent a breakdown in the concept of neighborhood integrity. The established buffer zone of O-6 between the residential and business or industrial zone would be broken. They feel it would be a highly undesirable precedent in their community.

Mr. George Warren, 612 East Worthington, and Mr. Martin Hughes of 911 East Worthington spoke in opposition to the rezoning. Mr. Warren stated one of the main reasons he bought his house is because it is in the inner-city. That is important to him as it gives him easy access to his work and easy access to downtown. Mr. Hughes stated he bought the property on East Worthington when he saw the street was being developed through a renewal effort. That the encroachment of business on that end of the street would add traffic to their street; that they hope to attract, and they are attracting, young families into this community. That these young parents are concerned about traffic.

Councilman Short asked Mrs. Lyerly if she plans to use the same residential building for the purpose she mentioned, and no new building will be built. Mrs. Lyerly stated yes; she feels it would improve it and they would do nothing to downgrade it. There is an alley in the back and the parking would be in the back.

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

HEARING ON 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 EAST CORNER OF CAROLYN DRIVE.

The scheduled public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised the property is located on Central Avenue at the corner of Carolyn Drive; it has on it two single family structures, with the corner portion of the property vacant. To the rear down Carolyn Drive are single family homes; across Carolyn from the property is a non-conforming business use which has been there for many years, and is a pest control company; across Central Avenue is a church, and single family residences down near Cyrus Drive. The Eastway Shopping Center is located at the intersection of Eastway Drive and Central Avenue. Immediately adjacent to the subject property are several detached uses, separate and apart from the shopping center. There are several restaurants located on Central Avenue, and behind them is Kates Skating Rink. There are business uses related to the subject property on the east side; single family residences to the rear down Carolyn Drive, non-conforming activity across Carolyn from the subject property, and the Church across Central from it.

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He stated the subject property is zoned R-6MF as is most of the property from that point along Central Avenue on both sides coming back towards the center city; to the rear along Carolyn Drive there is single family zoning; to the east is business zoning out to and beyond Eastway Drive. Across Central Avenue is multi-family zoning; and beyond that is O-6 office zoning. The property has residential zoning on three sides, and B-1 zoning on the one side to the east.

Mr. Henry Harkey, Attorney for the Petitioners, stated the property now has a split zoning on it; they adjoin a large shopping center, and they are sandwiched in between a shopping center and the Southern Pest Control. The subject property is now occupied by two residences, each of which are about 50 years old. The lots are only 178 feet deep, and are not large enough for an apartment complex. There is too much noise and too much traffic, and it is no longer desirable to live in the two houses; they are adjacent to a skating rink, restaurant, service station, and dry cleaning establishment. Together these three lots will make a nice business lot and will be commensurate with the neighborhood.

Councilwoman Locke asked if there are any definite plans for the property? Mr. Harkey replied not at this time, other than applicants to rent the houses to use for business. One is a curtain making-home decoration who would like to rent the property.

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. 74-19 BY HORACE PITTMAN FOR A CHANGE IN ZONING FROM O-6 TO B-2 OF A TRACT OF LAND FRONTING 200' ON THE SOUTH SIDE OF CENTRAL AVENUE, BEGINNING 199' WEST OF REDDMAN ROAD.

The public hearing was held on the subject petition.

The Assistant Planning Director stated the subject property is vacant; it is surrounded by vacant property on three sides, and is immediately across Central Avenue, from the Eastland Mall which is under construction. There is business zoning on three sides and office zoning on the fourth side.

Mr. Sam Williams, Attorney for the petitioner, stated Mr. Pittman has developed the parcel of the land which is occupied by the Hartford Insurance Building, and abuts the Lake Apartments and faces Albemarle Road. The Pittman family has owned the entire 26 acres for 30 years, and they have commenced with a high level office development, with the Hartford Building being the first structure. Mr. Pittman has committed one corner to a bank; this is directly across from Eastland Mall Shopping Center. He has also committed another corner to a bank. They are trying to enlarge the commercial area by 52,000 square feet to have a mini-mall with specialty shops. By the location of the two banks on the corners, Mr. Pittman has frozen out any realistic use of the strip that comes off Reddman Road. He stated all their property has been subjected to the State Highway right of way. They are trying to enlarge their frontage on Central Avenue by 200 feet so they will have an area that is very much like the shopping center across the street from SouthPark where there is a Savings & Loans, Banks and specialty shops.

Councilman Whittington asked if they are set back far enough to widen Central Avenue? Mr. Williams replied it has already been widened; they have given 20 feet so there is a 100 foot right of way there. The Pittmans conveyed their property for compensation to the State for the widening of Reddman Road, which saved the orphanage property from having any effect in the widening. The State has already been through this portion, and right of way agreements have been recorded. Albemarle Road is 150 feet.



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Councilman Short stated if someone is going out Central Avenue they would make a right turn into the subject property; he asked where the entrances are for Eastland Mall? Mr. Williams replied there are two major entrances. One is 250 feet from the northerly edge of the Pittman's office site; the other entrance is the extension of Reddman Road. Councilman Short stated there will be a lot of cars going out Central Avenue trying to turn both left and right. He asked how many lanes are planned? Mr. Williams replied they plan a series of right turns for serving this facility; there will be a right turn off Central into the area, and a right turn out of the facility. You will have the same situation coming into Reddman and the same situation coming in from Albemarle. People can leave the facility without making a left turn. That he does not know what is contemplated for Central in the way of an island. Mr. Bryant stated the plan for widening Central does call for a well controlled median treatment on Central. Left turns will be allowed only at the major entrances to the shopping center-which will be Reddman Road and the other one west of the subject property. Only right turns will be possible into this tract.

Mr. Williams stated one bank is in the preliminary process, and the other one is under negotiation.

No opposition was expressed to the proposed change in zoning.

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

COUNCILMAN WITHROW EXCUSED FROM PARTICIPATING IN THE NEXT PETITION DUE TO POSSIBLE CONFLICT OF INTEREST.

During the presentation of Petition No. 74-21, Councilman Withrow stated he owns property on Meadowbrook Drive, adjacent to the property under discussion, and asked if he might have a conflict of interest and if Council will disqualify him from participating in the Petition. Mr. Underhill, City Attorney stated there is a potential conflict and it has been considered in the past to be a conflict.

Councilman Harris moved that Mr. Withrow be disqualified from participating in the petition. The motion was seconded by Councilman Short, and carried unanimously.

HEARING ON PETITION NO. 74-21 BY E. C. GRIFFITH COMPANY FOR GRANTING CONDITIONAL APPROVAL FOR PROPERTY NOW ZONED R-12 TO BE USED FOR RECREATIONAL PURPOSES (TENNIS FACILITY) AND LOCATED WEST OF RANDOLPH ROAD AT ITS INTERSECTION WITH BILLINGSLEY ROAD.

The scheduled public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised a few months ago there was installed into the text of the City's zoning ordinance a process whereby certain types of recreational facilities could be considered as conditional uses in residential zones. This is the first request for a recreational use since it was installed into the ordinance. It has been in the county ordinance for sometime, and several are already in existence as a result of that.

Mr. Bryant stated this is a request for conditional approval to allow a tennis club facility to be located in an area off Randolph Road near Billingsley Road. The property does not have frontage on any public street but is near Randolph Road. It consists of about a ten acre tract of land; it is totally vacant, and the immediate property around it is vacant on three sides. Partially on the fourth side are the rear lots which front on Meadowbrook Road.

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He stated the zoning pattern is one of single family completely surrounding the subject property, coming out to Randolph Road over to and past Briar Creek and on down into the Meadowbrook area. Across Randolph Road is a considerable amount of office zoning, the most recent of which was the county property which was rezoned to O-15 to provide for office type facility. There is some multi-family zoning located north of the subject property on the intown side along Randolph Road.

Mr. Bryant stated this is a conditional use; a site plan is required and if approved must be followed. He explained the site plan stating the facility proposes to bring a street in from Randolph Road, which would be an extension of Billingsley coming down and in front of the subject property; a driveway would then come down into the parking area. The major feature of the plan is for a structure to house indoor tennis courts. It would accommodate in its first phase eight (8) tennis courts. In addition there is proposed a maximum of 8-outdoor courts. Then there is some green space planned, some of which is shown for a possible future extension of both the outdoor and indoor courts. Basically the use plan consists of one structure and then the outdoor facility and the parking area.

Mr. Robert Bradshaw, Attorney, stated his firm represents a group of local investors who have reached an agreement with the E. C. Griffith Company for a long term lease of the property involved. Mr. Bradshaw referred to the plan stating the building will house eight indoor courts with accompanying service building and pro shop, with the outdoor facilities to the left; the parking area in the upper left. This will be a private tennis club and memberships would be sold to persons who apply and applications approved. There will be a full time tennis professional. He stated they have contacted all the residents on the Meadowbrook side of the property and explained to them what they plan; they also contacted the President of the Eastover Homeowners Association. While there will be no direct access from Eastover to the property, in some degree it will be visible. Several concerns were expressed. One was the question of lighting. There will be no lighting on the outdoor courts, and no night playing outside. The only lighting would be in the parking area. The question of water runoff was discussed. The water now carries a natural flow along the line and roughly paralleling the property line at the bottom of the plan; that would be preserved under their plan of development. Although the flood plain ordinance is not yet applicable to Briar Creek at this point, the developer plans to comply with the flood plain ordinance. McAlister Carson, Jr. is one of the investors and is present today. They feel this would be a very valuable asset to this general area.

Mayor Belk asked if it would hurt the project if the road did not come off Randolph Road? Mr. Bradshaw replied he is sure it would hurt it. Mayor Belk stated Eastover has been cut off there for a number of years, and in place of coming out on Randolph it would still be cut off. Mr. Bradshaw stated they have no proposal to connect with Eastover; that he does not think they would want to make such a proposal as it would have to go across the creek. They would have to have connections from Randolph.

Commissioner Jolly asked who owns the surrounding property? Mr. Bradshaw replied the E. C. Griffith Company owns the property to the right; Nivens Investment Company owns property just beyond the property on Randolph Road; and individual property owners on Meadowbrook. He stated the screening is one they are concerned with not only as good neighbors, but they have to have good screening so that the facility will have privacy.

Councilman Alexander asked if the Club will be restricted? Mr. Bradshaw replied it would not be a public facility in the sense that anyone coming in on a one time basis; it would be a membership facility which would have applicants for membership, and they would have the right to reserve court time. The economics of it are such that you almost have to have a committed group through membership in order for it to be feasible from an economic standpoint.

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Councilman Short asked what the Wilbur Smith plan calls for in this area; where does the arterial road run? Mr. Bryant replied the existing plan calls for a road to come down through Briar Creek; that has been dropped from the new plan.

Councilman Harris asked if there is any need for the road to connect directly from Billingsley; could it not connect further out Randolph Road? Mr. Bradshaw replied he assumes it could. Mr. Carson stated when they were making these plans they talked with Mr. Hoose and Mr. Bryant and it was their thought the probable best entrance would be opposite Billingsley so that if you had to have a light eventually to control the traffic, that would be the most logical place.

Mr. Carson stated there will be no racial bias in the membership. That Mr. Arthur Ashe has been one of their advisors. Their membership is simply to encourage tennis players. The restrictions of their membership will simply be to encourage tennis players and they will take any that can join and pay the fees.

No opposition was expressed to the proposed change in zoning.

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

#### COUNCILMAN WITHROW RETURNS TO MEETING.

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

HEARING ON PETITION NO. 74-22 BY W. CALVIN KENLEY FOR A CHANGE IN ZONING FROM B-1 TO B-2 OF 6.88 ACRES OF LAND ON THE SOUTHEAST SIDE OF YORK ROAD AT THE INTERSECTION WITH YORKMONT ROAD.

The scheduled public hearing was held on the subject petition.

The Assistant Planning Director stated the property has frontage on York Road, Yorkmont Road, and backs up to the Southern Railroad property line. It consists of something less than seven acres; at present the area is utilized for a variety of business purposes. A bank is located near the intersection; a service station has frontage on York Road; a restaurant, a laundry-dry cleaner and vacant building are all contained within the confines of the subject property. The area in general has a configuration of business uses. The nearest residents are located on Yorkmont going in the direction of Nations Ford Road. In the immediate vicinity of the subject property there is a pattern of commercial uses.

Mr. Bryant stated there is B-1 zoning existing on the southwest side of the crossline railroad; and all B-1 around the intersection of Yorkmont and York Roads. There is B-2 zoning across the railroad; there is an industrial zoning along I-77; there is office zoning paralleling that, and some office zoning in Yorkmont Road-York Road area. Then R-9 zoning which extends a considerable distance along Yorkmont. The immediate area not only is utilized for commercial purposes but has predominately B-1 zoning surrounding it.

Mr. T. L. Odom, Attorney representing the petitioner, stated after Mr. Kenley had owned this property for a number of years and constructed two buildings which houses a number of different types of retail buildings, York Road was widened. That Mr. Kenley came to him at that time, and wanted to fight the medians that were being put down. That he told him at that time that concrete medians were all over the City of Charlotte and he did not see how you could have a law suit over concrete medians and be successful. They did not have one, and the medians were put in. As a result this property now can no longer be of great benefit to the type of business that were originally planned. There was an A & P Store located there and under a long term lease; they have pulled out. When an A & P pulls out, you know you have a traffic problem.

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Mr. Odom stated as you come out of Charlotte going south on York Road, in order to get into this particular piece of property, you have to come down, make a left turn onto Yorkmont Road, then go about 100 feet past the Bank and then turn into the shopping center. If you want to get back out and go south, then you have to come out the shopping center, go south again on Yorkmont Road, down through the residential area, make a right turn. It has become very difficult to rent to any type of general retail business. The building has been vacant for over a year; it is 12,000 square feet of business that is absolutely vacant. They believe B-2 is compatible with the neighborhood.

Mr. Odom stated this is an area that has just come into the city in the annexation. He passed around a number of photographs to show the building that is in question. He stated there is a wholesale record distribution company talking with Mr. Kenley; it would be a warehouse type facility for distributions in different parts of North and South Carolina; there would be a lot less traffic by having it B-2 than it would be by having a grocery store.

Mayor Belk stated with the belt road through that area, will this have any bearing on an interchange on I-77? Mr. Odom replied as he understands it, it will not.

No opposition was expressed to the proposed rezoning.

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

MAYOR BELK EXCUSED FROM PARTICIPATION IN PETITION NO. 74-23 DUE TO CONFLICT OF INTEREST AND MAYOR PRO TEM WHITTINGTON PRESIDES FOR REMAINDER OF SESSION.

Mayor Belk stated his family has some stock in the Cole Manufacturing Company, and asked if it is a conflict?

Councilman Short moved that the Mayor be allowed to withdraw from participation. The motion was seconded by Councilman Whittington, and carried unanimously.

Mayor Belk left the meeting, and Mayor pro tem Whittington presided for the remainder of the session.

HEARING ON PETITION NO. 74-23 BY COLE MANUFACTURING COMPANY FOR A CHANGE IN ZONING FROM B-2 TO I-2 OF 1.62 ACRES OF LAND ALONG THE EAST SIDE OF SEABOARD AIRLINES RAILROAD BETWEEN CENTRAL AVENUE AND INDEPENDENCE BOULEVARD.

The scheduled hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised the property is located on a sort of interior situation, bounded by Independence, Pecan, Central and Lamar Avenue. At present it is utilized by the Cole Manufacturing Company with some buildings that have been there for a number of years, and technically they are non-conforming at present. They wish to expand one of the buildings and it will be necessary to change the zoning. Wrapped sort of around the property on the Central Avenue side and on the Pecan Avenue side is the Central Square Shopping Center Area with a number of retail shopping facilities located in the area. The railroad is on one side of the property; across the railroad is a combination of vacant property, a distributing company and a mechanical contractor's facility located on Central Avenue. Generally the area is committed to either industrial or business activities.

He stated there is industrial zoning extending from the subject property out to Independence Boulevard; also across the railroad is an industrial zoning. Where the shopping center is located is B-2 zoning. The property has B-2 zoning on two sides and industrial zoning on the remaining two sides.

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Mr. John Hunter, Attorney for the petitioner, stated the property in question has been owned by the Cole Manufacturing Company since 1900; it is one of the oldest manufacturing companies in Charlotte, and one of the largest. The property surrounding it is also owned by the same principal who owns Cole Manufacturing Company. From the railroad and Independence Boulevard and Central Avenue on up north to the shopping center is all owned by the same company. The present plant facilities of Cole Manufacturing are situated adjacent to the railroad between Central Avenue and Independence Boulevard. The B-2 line and I-2 line intersect the middle of the plant facility. Approximately 50 percent of the plant is in I-2 and 50 percent of the plant is in B-2, under a non-conforming use. One of the oldest buildings of the plant was to be enlarged approximately 5200 square feet. When they attempted to obtain the permit, they were informed that the building was in a B-2 district, and all along it has been as a non-conforming use in a B-2 district.

He then showed the members of the City Council and the Planning Commission the survey, which he explained to them individually.

No opposition was expressed to the proposed rezoning of the property.

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


**RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON PETITIONS NO. 74-24 THROUGH 74-30 FOR ZONING CHANGES.**

Upon motion of Councilman Withrow, seconded by Councilman Short, and unanimously carried, resolution was adopted providing for public hearings on Monday, June 17, 1974, on Petitions No. 74-24 through 74-30 for zoning changes, at 8:00 o'clock p.m., in the Board Meeting Room, on the Fourth Floor of the Education Center, 701 East Second Street.

The resolution is recorded in full in Resolutions Book 9, at Page 484.

**ADJOURNMENT.**

Motion was made by Councilman Harris, seconded by Councilman Alexander, and unanimously carried to adjourn the meeting.

  
Ruth Armstrong, City Clerk