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| <b>REQUEST</b>                             | Text amendment to Section 6.110 and 6.111 of the Zoning Ordinance.  |
| <b>SUMMARY OF PETITION</b>                 | The petition proposes changes to the Zoning Ordinance to comply with the North Carolina General Statutes 41A-4 and 41-A-5(a), Session Law 2009-533, and modifications to the North Carolina Fair Housing Act by adding new regulations that make it an unlawful discriminatory practice for a local government to make land use decisions based upon the fact that affordable housing is contained in a proposed rezoning petition. |
| <b>PETITIONER<br/>AGENT/REPRESENTATIVE</b> | Charlotte-Mecklenburg Planning Commission<br>Charlotte-Mecklenburg Planning Department  |
| <b>COMMUNITY MEETING</b>                   | Meeting is not required.  |
| <b>STATEMENT OF<br/>CONSISTENCY</b>        | This petition is found to be consistent with adopted policies and to be reasonable and in the public interest, by a 5:1 vote of the Zoning Committee (motion by Commissioner Dodson seconded by Commissioner Walker).   |

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| <b>ZONING COMMITTEE<br/>ACTION</b> | The Zoning Committee voted 5 to1 to recommend <b>APPROVAL</b> of this petition. |
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| <b>VOTE</b> | Motion/Second: Walker/Dodson                           |
|             | Yeas: Dodson, Firestone, Phipps, Rosenburgh and Walker |
|             | Nays: Fallon   |
|             | Absent: Lipton   |
|             | Recused: None  |

**ZONING COMMITTEE DISCUSSION**

Staff reviewed the text amendment and provided a copy of an e-mail sent by Terrie Hagler-Gray, Senior Assistant City Attorney. The City Attorney’s office has recommended that there be no discussion of affordable housing by the Council or Zoning Committee since there is never a guarantee that 1) all discussion surrounding affordable housing will be favorable, and 2) even after favorable discussion about affordable housing, that the project won’t be denied for another reason; thereby exposing the City to potential liability under the State Fair Housing Act. This interpretation is consistent with existing case law holding that a municipality does not have the authority to control the manner in which property is owned, but may only regulate the “use” of property through zoning.

A Commissioner noted that it will be difficult not to say one word about affordable housing. What did the state have in mind when this was written? Other Commissioners concurred, noting this hampers public officials from even discussing affordable housing.

Another Commissioner stated that the Zoning Committee will have to consider the merits of a housing project, and not address any affordable housing.

Staff asked the Commissioner's to differentiate between this text amendment and affordable housing. The text amendment is consistent with state law and the city cannot discriminate against affordable housing. The advice from the Attorney's Office is that you don't discuss affordable housing; not that you can't discuss it. If affordable housing is discussed, and the rezoning is denied, then if the City were sued, it would be harder to defend.

**STAFF OPINION**

Staff agrees with the recommendation of the Zoning Committee.

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**FINAL STAFF ANALYSIS**  
(Pre-Hearing Analysis online at [www.rezoning.org](http://www.rezoning.org))

**PLANNING STAFF REVIEW****• Proposed Request Details**

- The text amendment contains the following provisions:
  - Adds a reference to the North Carolina General Statutes 41A-4 and 41-A-5(a) that the Planning Commission, in making its written recommendation to City Council, and the City Council, in making its land use decision on zoning petitions, shall not discriminate against affordable housing for families or individuals with incomes below eighty percent of the area median income.
  - Adds new language that permits the Planning Commission and City Council to base their recommendation and/or decision on considerations of limiting high concentrations of affordable housing.

**• Public Plans and Policies**

- This petition is consistent with adopted policy.

**• Staff Recommendation (Updated)**

- Staff recommends approval of this petition. The petition is consistent with adopted policy.

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**DEPARTMENT COMMENTS** (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Charlotte Department of Transportation:** No issues.
  - **Vehicle Trip Generation:** Not applicable.
  - **Connectivity:** Not applicable.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** Not applicable.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
- **Mecklenburg County Parks and Recreation Department:** No comments received.

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**ENVIRONMENTALLY SENSITIVE SITE DESIGN** (see full department reports online)

- **Site Design:** Not applicable
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**OUTSTANDING ISSUES**

- No issues.
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**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Pre-Hearing Staff Analysis
- Charlotte Department of Neighborhood & Business Services Review
- Charlotte Department of Transportation Review
- Charlotte Fire Department Review
- Charlotte-Mecklenburg Storm Water Services Review
- Mecklenburg County Land Use and Environmental Services Agency Review

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