

Mayor Anthony Foxx

John Autry

Warren Cooksey

Claire Fallon

Patsy Kinsey

James E. Mitchell, Jr.

Mayor Pro-Tem Patrick Cannon

Michael D. Barnes

Andy Dulin

David Howard

LaWana Mayfield

Beth Pickering

CITY COUNCIL ZONING AGENDA

Monday, December 17, 2012

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

6:00PM – Zoning Meeting
Meeting Chamber

DINNER MEETING

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

ALL REZONING PETITIONS MAY BE VIEWED ON THE WEB AT
www.rezoning.org

<u>Zoning Districts</u> ● B-1 – neighborhood business district ● B-2 – general business district ● B-1SCD – business shopping center district ● BD – distributive business district ● BP – business park district ● CC – commercial center district ● I-1 – light industrial district ● I-2 – general industrial district ● INST – institutional district ● MUDD – mixed use development district ● MX-1 – mixed use district ● MX-2 – mixed use district ● MX-3 – mixed use district ● NS – neighborhood services district ● O-1 – office district ● O-2 – office district ● O-3 – office district ● R-3 – single-family residential – up to 3 dwelling units per acre (dua) ● R-4 – single-family residential – up to 4 dua ● R-5 – single-family residential – up to 5 dua ● R-6 – single-family residential – up to 6 dua ● R-8 – single-family residential – up to 8 dua ● R-8MF – multi-family residential – up to 8 dua ● R-12MF – multi-family residential – up to 12 dua ● R-17MF – multi-family residential – up to 17 dua ● R-22MF – multi-family residential – up to 22 dua ● R-43MF – multi-family residential – up to 43 dua ● R-MH – residential manufactured housing ● RE-1 – research district ● RE-2 – research district ● RE-3 – research district ● TOD – transit oriented development ● TOD-E – transit oriented development – employment ● TOD-EO – transit oriented development – employment - optional ● TOD-M – transit oriented development – mixed use ● TOD-MO – transit oriented development – mixed use – optional ● TOD-R – transit oriented development – residential ● TOD-RO – transit oriented development – residential - optional ● U-I – urban industrial district ● UMUD – uptown mixed use district ● UMUD-O – uptown mixed use district - optional ● UR-1 – urban residential ● UR-2 – urban residential ● UR-3 – urban residential ● UR-C – urban residential - commercial	<u>Overlay Districts</u> ● CR/LWW – Catawba River / Lake Wylie watershed ● CR/LWWCA – Catawba River / Lake Wylie watershed – critical area ● CR/LWWPA – Catawba River / Lake Wylie watershed – protected area ● HD-O – historic district overlay ● HW – hazardous waste overlay ● LNW – Lake Norman watershed ● LNWCA – Lake Norman watershed – critical area ● LNWPA – Lake Norman watershed – protected area ● LLWW – Lower Lake Wylie watershed ● LLWWCA – Lower Lake Wylie watershed – critical area ● LLWWPA – Lower Lake Wylie watershed – protected area ● MILW – Mountain Island Lake watershed ● MILWCA – Mountain Island Lake watershed – critical area ● MILWPA – Mountain Island Lake watershed – protected area ● MH- – manufactured home overlay ● PED – pedestrian overlay district ● PED-O – pedestrian overlay district – optional ● TS – transit supportive overlay district <u>Miscellaneous Acronyms</u> ● CD – conditional ● SPA – site plan amendment
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HISTORIC LANDMARKS

	1. A Public hearing to consider Historic Landmark designation of the property known as the "Paul and Wilkie Beatty House" (listed under Tax Parcel Number 07321815 as of October 15, 2012, and including the interior and exterior of the house, and the parcel of land listed under Tax Parcel Number 07321815). The property is owned by VSW Properties Irwin Avenue LLC, and is located at 215 South Irwin Avenue, Charlotte, North Carolina. Attachment 1
	2. A Public hearing to consider Historic Landmark designation of the property known as the "Stratton House" (listed under Tax Parcel Numbers 07321325, 07321326, and 07321327 as of October 15, 2012, and including the interior and exterior of the house, and the parcels of land listed under Tax Parcel Numbers 07321325, 07321326, and 07321327). The property is owned by VSW Properties West Fourth Street LLC and Power Products Manufacturing Company and is located at 911 West Fourth Street Extension, Charlotte, North Carolina. Attachment 2
	3. A Public hearing to consider Historic Landmark designation of the property known as the "Woodlawn Bungalow" (listed under Tax Parcel Number 07321513 as of October 15, 2012, and including the interior and exterior of the house, and the parcel of land listed under Tax Parcel Number 07321513). The property is owned by The Committee to Restore and Preserve Third Ward, and is located at 1015 West Fourth Street, Charlotte, North Carolina. Attachment 3

DECISIONS

Protest Sufficient	4. <u>Petition No. 2012-085</u> (Council District 7 - Cooksey) by Childress Klein Properties for a change in zoning for approximately 18.8 acres located on the southeast corner at the intersection of Johnston Road and Marvin Road from R-3 to UR-2(CD). This petition is found to be inconsistent with the South District Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition with the following modifications: 1. Addressed CDOT comments as follows: a. The proposed right-of-way on Marvin Road accommodates a future five-foot bike lane, an eight-foot planting strip and a six-foot sidewalk. b. Provided a note committing to the dedication of additional right-of-way necessary to accommodate the required planting strip and sidewalk on Marvin Road. c. Added a prefix to the "Transportation" Section that states "All described transportation improvements below shall be implemented prior to the issuance of the site's first building certificate of occupancy." d. Provided a 150-foot long painted median on Marvin Road between the site's proposed private street connection and Donnington Drive. e. Included a typical cross-section along with a schematic drawing depicting the proposed road improvements on Marvin Road, which include the existing and future right-of-way, Johnston Road's edge of shoulder, Marvin Road's proposed back-of-curb, future travel/turning and bike lanes, painted medians, proposed building setback lines, and proposed curb and gutter. f. Amended Note D under the heading of "Transportation" to state "the petitioner shall construct a southbound directional crossover with a minimum of 150 feet of storage on Johnston Road to provide left-over access to the Site's access point to Johnston Road".
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2. Tree save areas have been shown and labeled.
3. Garage building along Lancaster Highway has been relocated out of the setback.
4. Sidewalk along Lancaster Highway has been shown and labeled.
5. Label the proposed private street on Sheet RZ-2 and specify under the heading of "Transportation" on Sheet RZ-3. Staff has rescinded this request.
6. Specify layout of parking abutting the private street as per the following note: "Required sidewalk width along the private street varies depending upon parking configuration." Staff has rescinded this request.
7. Increase the width of the planting strip along the private street to a minimum eight feet if the planting strip is required for parking per the Tree Ordinance. Staff has rescinded this request.
8. Labeled buildings on Sheet RZ-2 to correspond with elevations and building types shown on Sheet RZ-4.
9. Specified fence type as a precast concrete wall with stone finish and provided an elevation of the fence.
10. Indicated on Sheet RZ-3 that the amenity area shall include a swimming pool, seating areas, and landscaping.
11. Amend the Residential Section on Sheet RZ-2 to include the width of the sidewalk and planting strip. Staff has rescinded this request.
12. Specified maximum building height as a maximum of 75 feet and four stories on Sheet RZ-3 under heading of Development Standards.
13. Labeled height of buildings in feet and stories on Sheet RZ-4.
14. Added note that the 10-foot asphalt greenway trail between Marvin Road and the greenway dedication area will be built, owned, maintained and controlled privately and the trail will be built to the Mecklenburg County Park and Recreation greenway trail standards.
15. Correctly labeled the 14-foot setback along U. S. Highway 521 from "existing right-of-way" instead of from the existing edge of pavement.
16. Amended Note 2b under the heading of "Transportation" to specify that a partial traffic signal will be installed at the intersection of Johnston Road and Marvin Road, which provides signaling for phasing to allow protected and permitted turning movements for southbound left turns from Johnston Road and northbound right turns from Marvin Road.
17. Added Note 3e under heading of "Architectural Standards" to add that for buildings to be constructed within the area currently designated as tax parcel 223-531-06, second and third floor units that face tax parcel 223-531-08 shall incorporate sunrooms in lieu of balconies.
18. Added Note 4b under heading of "Streetscape and Landscaping" to state that abutting tax parcel 223-531-08 and extending south to the northern boundary of the new public street extending from Johnston Road to tax parcel 223-531-09 the petitioner shall install and maintain Chesapeake Holly trees and Japanese Cedars planted twelve feet on center. Such trees shall measure at least six feet in height at the time of installation. Provided an illustration of the buffer plan.
19. Deleted reference to planting strip and sidewalk along a proposed private street.
20. Combined two buildings along U. S. Highway 521.
21. Added Note 2l under the heading of "Transportation" to provide two options for a pedestrian connection from the southern boundary of the new public street connection to Johnston Road to the existing sidewalk on tax parcel 223-531-03. Note specifies that approval of this connection as well as any requirements for signage, lighting, maintenance and confirmation of appropriate easements will be handled through the subdivision review process. Depending on the option chosen, a deadline for installation and a time frame for maintenance have been included.
22. Decreased the maximum height of detached lighting from 25 feet to 20 feet.

Staff recommends approval of this petition.

Attachment 4

Deferral (to January)	5. <u>Petition No. 2012-087</u> (Council District 7 - Cooksey) by AEA, LLC for a change in zoning for approximately 3.56 acres located on the south side of Ballantyne Commons Parkway between Rea Road and Williams Pond Lane from R-3 to O-1(CD). The Committee voted unanimously to DEFER this petition to their January 9, 2013 meeting. Staff recommends approval of this petition upon resolution of outstanding issues. Attachment 5
Protests Sufficient	6. <u>Petition No. 2012-091</u> (Outside City Limits) by Anthony W. Packer for a change in zoning for approximately 20.0 acres located on the north side of Garron Point Drive between Mt Holly-Huntersville Road and Pointer Ridge Drive from MX-2 LWCA, LWPA to R-12MF(CD) LWCA, LWPA. This petition is found to be consistent with the Northwest District Plan and to be reasonable and in the public interest, by a 4-3 vote of the Zoning Committee. The Committee voted 4-3 to recommend APPROVAL of this petition with the following modification: 1. Modified the tree preservation calculations under the "Site Information" table to indicate the development will comply with the minimum 15 percent tree save requirements. Staff recommends approval of this petition. Attachment 6
	7. <u>Petition No. 2012-092</u> (Council District 1- Kinsey) by NASR N. Basily for a change in zoning for approximately 1.93 acres located on the east side and west side of Eastway Drive between Springway Drive and Hillard Drive from R-17MF to O-1(CD). This petition is found to be inconsistent with the Eastland Area Plan but to be reasonable and in the public interest, by a 6-1 vote of the Zoning Committee. The Committee voted 6-1 to recommend APPROVAL of this petition with the following modifications: 1. The transitional setback has been removed from the site plan. 2. The required 10' buffer has been provided along new zoning lines as indicated for lot associated with the address 1634 Eastway Drive. 3. The petitioner has added a note to the site plan stating that the proposed driveway to serve 1641 Eastway Drive will encroach onto the property located at 1637 Eastway Drive and require an access easement to accommodate its construction. The Zoning Committee requested the following modification: 1. That the site plan be amended to prohibit the establishment of tattoo, check cashing, and electronic gaming uses. Staff recommends approval of this petition upon resolution of the outstanding issue. Attachment 7

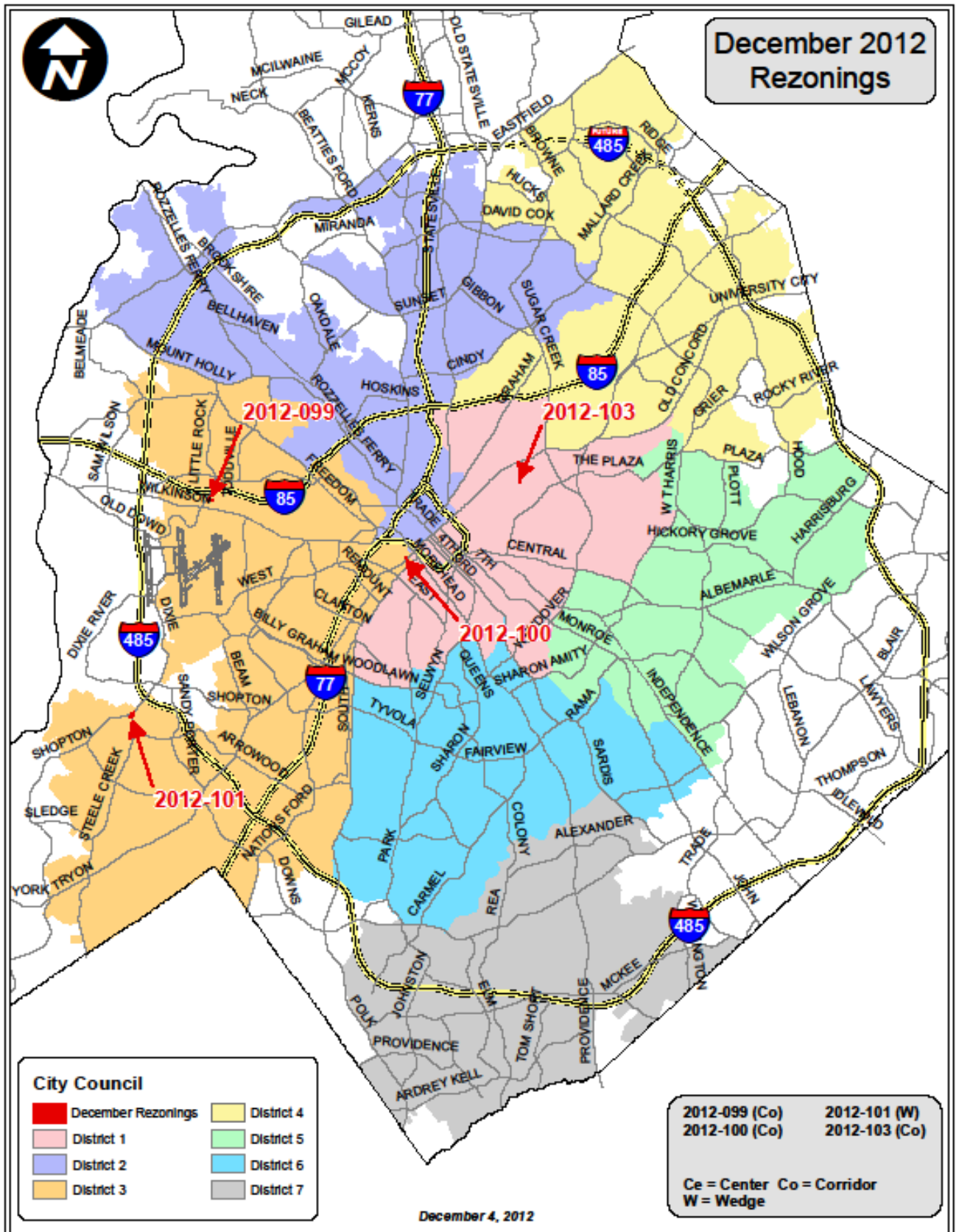
8. Petition No. 2012-093 (Council District 6 - Dulin) by **Grubb Properties** for a change in zoning for approximately 1.41 acres located at the intersection of Colony Road and Roxborough Road from R-17MF and MUDD-O to MUDD-O and MUDD-O SPA.

This petition is found to be consistent with the South District Plan and to be reasonable and in the public interest, by a 6-1 vote of the Zoning Committee. The Committee voted 6-1 to recommend **APPROVAL** of this petition with the following modifications:

1. Corrected density to reflect 70.92 units per acre.
2. Listed optional request to one detached, ground mounted sign limited to 32 square feet in size and up to four feet in height.
3. Amended Note 2 under heading of General Provisions as follows:
 - a. Deleted reference to rezoning petition 2004-015;
 - b. Removed reference to alignment of internal streets;
 - c. Noted that buildings will be constructed in a manner similar to the schematic elevations provided on Sheet RZ-3;
 - d. Deleted reference to an optional provision from previous petition 2004-015.
4. Amended Note 4C under the heading of "Permitted Uses" to add business centers as an accessory use to the residential development.
5. Amended Note 5B under the heading of "Transportation" to reference Site Plan instead of Schematic Plan.
6. Changed to notes under the heading of "Architectural Standards" as follows:
 - a. Removed reference to "mixed use portion of the site" under Note 6C.
 - b. Amended Note D to state that the petitioner agrees not to install any rooftop mounted heating, ventilation or air conditioning equipment unless such equipment is completely screened on all four sides and a sloped roof structure on top of the screening walls.
 - c. Added Note E, which indicates that, in order to reduce the number of rooftop mechanical units, the petitioner agrees to install packaged terminal air conditioner systems in each of the residential units unless installation is not practically feasible given the design and layout of a particular unit, in which case a split heating, ventilation and air conditioning system may be used for such unit; provided, however, in no event shall a split system be used in more than 10 percent of the total units constructed and any equipment placed on the roof for such units using a split system and for any common areas of the building will be screened as provided in Note 6D.
 - d. Added Note F stating that no public assembly space or improvements will be constructed on the roof of any building other than a terrace that may be constructed on the roof of a parking structure and which will be integrated as a part of the building configuration.
 - e. Amended Note H to add that exterior balconies may cantilever out from the building a distance not to exceed approximately 18 inches.
 - f. Added Note I to state that dumpster areas will be enclosed on all four sides by an opaque wall with one side being a hinged opaque gate. If one of more sides of a dumpster adjoin a side or rear wall of a building, then the side or rear wall may be substituted for a side. No dumpster will be permitted within 100 feet of the northern property line abutting residential zoning classification.
 - g. Added Note J stating that any loading and dumpster area shall be constructed to accommodate not less than a 24-foot moving truck in such a manner as to avoid such truck from extending into, or blocking traffic on any internal private streets serving the Site. Petitioner will plant large maturing trees on either side of the drive in order to provide screening between the dumpster and adjacent properties across Lloyd Church Road.
 - h. Added Note K stating that the Petitioner agrees to construct and make available to residents of any building developed on the Site amenities which shall include, without limitation, a swimming pool, clubhouse with business capabilities such as Wi-Fi and printer, a fitness center and parking. The pool and fitness center will be of sufficient size to reasonably service the residents of the building.

2012-093 continued	7. Amended Note 7H under the heading of “Streetscape and Landscaping” to state that all roof mounted mechanical equipment will be screened from view from adjoining public rights-of-way and abutting properties as viewed from an elevation of approximately 75 feet above grade. 8. Added Note I under the heading of “Streetscape and Landscaping” to state that the swimming pool amenity area will be screened from Colony Road and from Sharon Township Lane with either opaque fencing, walls, landscaped plantings or any combination of such screening methods to a maximum height of four feet. 9. Amended Note 12A under the heading of “Lighting” to delete reference to a walking trail. 10. Amended Note 8 under the heading of “Environmental Features” to state that Storm water retention areas will be at existing off-site retention facilities pursuant to existing easements appurtenant to the Site as set forth on Rezoning Petition 2004-015. Site development permits will be conditioned upon submittal of sufficient documentation to verify the existing storm water retention facilities have been properly designed and constructed to serve the proposed development. Staff recommends approval of this petition. Attachment 8
	9. Petition No. 2012-094 (Council District 2 - Mitchell) by Kelley E. Moulton for a change in zoning for approximately 0.36 acres located on northwest corner at the intersection of Wake Street and Frazier Avenue from UR-1(CD) to R-6. This petition is found to be inconsistent with the West End Land Use & Pedscape Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition. Staff recommends approval of this petition. Attachment 9
	10. Petition No. 2012-095 by (Council District 6 - Dulin) Michael Brawley for a change in zoning for approximately 0.35 acres located on the northwest corner at the intersection of Mockingbird Lane and Park Road from O-2 to MUDD-O. This petition is found to be inconsistent with the South District Plan but to be consistent with the land use recommendation in the draft Park Woodlawn Area Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition with the following modifications: 1. Modified the proposed uses listed in the “Development Data Table” to indicate uses allowed within the MUDD zoning district. 2. Indicated the requested optional provision for screening as referenced in Note 7.d. under Note 3 “Optional Provisions”. 3. Reduced the maximum building height to 40 feet. Staff recommends approval of this petition. Attachment 10

	11. <u>Petition No. 2012-096</u> (Council District 2 - Mitchell) by Edencare, Inc. for a change in zoning for approximately 2.18 acres located on the west side of Davis Lake Parkway between David Cox Road and Harris Woods Boulevard from MX-2(INNOV) to INST(CD). This petition is found to be inconsistent with the Northeast District Plan but to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition. Staff recommends approval of this petition. Attachment 11
	12. <u>Petition No. 2012-097</u> (Council District 5 - Autry) by Time Warner Cable for a change in zoning for approximately 7.02 acres located on the east side of North Sharon Amity Road across from Delane Avenue from O-15(CD) to O-1(CD). This petition is found to be consistent with the South District Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition with the following modification: 1. The proposed zoning district has been added to the site data table. 2. Rezoning petition number 2012-097 has been added to the site plan. 3. A 38-foot Class C buffer has been provided adjacent to residential zoned property. 4. References to administrative approvals have been removed from the site plan. 5. Removed references to the original approved site plan. 6. A site data table listing site acreage, tax parcel numbers, existing and proposed zoning, proposed use, and current and proposed expansion square footage has been added to the site plan. 7. Existing buildings and square footages have been labeled on the site plan. 8. CDOT, CATS, and Engineering have been addressed as follows: a. Per request from CDOT, the petitioner has dedicated 20' feet of right-of-way along Sharon Amity Road. b. Per request from CATS, the petitioner has added a note regarding a proposed bus pad stating, "Pad at bus stop would be from curb to 9 feet back of curb and be 5 feet in width. Pad must be flush with sidewalk and level within 2% when measured perpendicular to street for compliance with the ADA." c. Per request from Engineering Land Development, petitioner has removed language regarding increase in impervious area since current zoning and increase in impervious area since 1978. 9. The site plan has been corrected to note 7.02 acres (parcel acreage). Staff recommends approval of this petition. Attachment 12
	13. <u>Petition No. 2012-098</u> (Council District 3 - Mayfield) by City of Charlotte - Aviation Department for a change in zoning for approximately 45.64 acres located on the north side of Wilkinson Boulevard at the intersection of Wilkinson Boulevard and Marshall Drive from R-3 LLWPA and B-2 LLWPA to I-2 LLWPA. This petition is found to be consistent with the Westside Strategic Plan and the Southwest District Plan and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee. The Committee voted unanimously to recommend APPROVAL of this petition. Staff recommends approval of this petition. Attachment 13



HEARINGS

	14. Petition No. 2012-064 by Charlotte Area Transit System for a Text Amendment to the City of Charlotte Zoning Ordinance to 1) add new definitions for passenger rail station, passenger rail platform, and advertising signs on passenger rail platforms, 2) allow advertising signs on passenger rail platforms with prescribed conditions. Staff recommends approval of this petition. Attachment 14
	15. Petition No. 2012-090 by Charlotte-Mecklenburg Planning Department for a Text Amendment to the City of Charlotte Zoning Ordinance to 1) allow the Zoning Board of Adjustment to have jurisdiction to grant variances on certain standards within the Transit Oriented Development districts (TOD), the Pedestrian Overlay district (PED), Mixed Use Development district (MUDD), and Uptown Mixed Use district (UMUD), and Transit Supportive Overlay District (TS), 2) allow the Board of Adjustment to have authority to consider variances related to the number of, or size of, permissible signs in a conditional district, and 3) allow the Board of Adjustment to have jurisdiction with respect to an interpretation of, or decision about the TOD or PED development or urban design standards. Staff recommends approval of this petition. Attachment 15
	16. Petition No. 2012-099 (Council District 3 - Mayfield) by John G. Blackman and David E. Fuller, Sr. for a change in zoning for approximately 2.14 acres located on the east side of Little Rock Road between Scott Furtrell Drive and Interstate 85 from I-2 to I-1. Staff recommends approval of this petition. Attachment 16
	17. Petition No. 2012-100 (Council District 3 - Mayfield) by the Charlotte-Mecklenburg Planning Department for a change in zoning for approximately 0.34 acres located along the south side of West Catherine Street between South Tryon Street and Winnifred Street from I-2 to TOD-M. Staff recommends approval of this petition. Attachment 17
	18. Petition No. 2012-101 (Council District 3 - Mayfield) by Dixie River Land Company for a change in zoning for approximately 4.63 acres located on the west side of Steele Creek Road between Dixie River Road and Shopton Road West from R-3 LLWPA to CC LLWPA. Staff recommends approval of this petition upon resolution of outstanding issues. Attachment 18
	19. Petition No. 2012-103 (Council District 1 - Kinsey) by Kenneth Lin and Jon Branham for a change in zoning for approximately 0.20 acres fronting both North Davidson Street and Yadkin Avenue between East 34th Street and East 35th Street from R-5 and B-1 to TOD-MO. Staff recommends approval of this petition upon resolution of outstanding issues. Attachment 19

	20. <u>Petition No. 2012-104</u> by Charlotte-Mecklenburg Planning Department for a voluntary incentive based density bonus text amendment to add “mixed income housing development” as a permitted development type within the R-3, R-4, R-5, and R-6 single family zoning districts with design and locational criteria. The amendment would provide an incentive for developers to incorporate housing for individuals with incomes at or below 80% of the area median income within new developments by 1) allowing for a density bonus of up to three units above the base density, 2) allowing a mix of housing types to be built that would include single family, duplex, triplex and quadraplex dwellings, and 3) modifying development standards such as lot sizes, setbacks/yards, lot widths, etc. Staff recommends approval of this petition. Attachment 20
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BUSINESS ITEMS

	21. Property Transaction Attachment 21
	22. Carolina Theatre Site Sale & Redevelopment Attachment 22
	23. City Manager Position Profile Attachment 23
	24. Closed Session Attachment 24