

<b>REQUEST</b>	Current Zoning: I-1 (light industrial) Proposed Zoning: TOD-M(CD) (transit oriented development – mixed-use, conditional)
<b>LOCATION</b>	Approximately 22 acres located on the east side of Macfarlane Boulevard near the intersection of North US 29 By-Pass Highway and North Tryon Street. (Council District 4 - Phipps)
<b>SUMMARY OF PETITION</b>	The petition proposes to allow all uses permitted in the TOD-M (transit oriented development - mixed-use) district.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	85 City Partners, LLC Carolina States Regional Center, LLC Jeff Orsborn
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 2

<b>ZONING COMMITTEE ACTION</b>	The Zoning Committee voted 7-0 to <b>DEFER</b> this petition to a special called meeting to be held on October 5, 2015.
--------------------------------	---

<b>VOTE</b>	Motion/Second: Sullivan/Wiggins Yeas: Dodson, Eschert, Labovitz, Lathrop, Nelson, Sullivan, and Wiggins Nays: None Absent: None Recused: None
-------------	---

**ZONING COMMITTEE DISCUSSION**

Staff provided an overview of the petition and noted that while many changes had been made, a number of outstanding issues remained, many of which resulted from a staff review of the site plan submitted following the public hearing. Staff expressed the need to work with the petitioner to resolve these issues prior to rendering a recommendation.

Members of the committee asked if the issues were substantive, or if they were more technical and minor in nature. Staff responded that there were substantive issues, and that staff would like the opportunity to work with the petitioner to resolve these issues.

The committee voted to suspend the rules to ask the petitioner if they were aware of the magnitude of the outstanding issues and to ask if a delay of the recommendation would impact the petition. The petitioner’s agent, Ken Walsh, stated that some of the comments reflected previous comments while some were new, but that the issues could be resolved easily. Mr. Walsh added that a 30-day delay would not break the deal but expressed the petitioner’s desire to move forward with a recommendation that day.

In response to a previous motion to defer action for 30 days, a staff member suggested that the Zoning Committee could hold a special called meeting after the Planning Commission Work Session on October 5, 2015. That would allow the petitioner adequate time to work with staff and to provide a written response indicating how each outstanding issue would be addressed. A committee member stated that it was difficult to obtain the level of detail mentioned at the public hearing for rezoning petitions located in transit areas and suggested deferral of the petition to a special meeting to be held October 5, 2015.

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

**PLANNING STAFF REVIEW**

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Allow all uses permitted in the TOD-M (transit oriented development - mixed-use) district.
- Development consists of four parcel areas.
- Gasoline pumps and drive-through windows as an accessory to an eating/drinking/entertainment use are prohibited.
- Drive-through facilities will not be visible from the public streets.
- Buildings on Parcel 1 fronting Periwinkle Hill Avenue will include ground floor non-residential uses for 50 percent of the frontage.
- No surface parking lots will be adjacent to Periwinkle Hill Avenue on Parcels 1 and 2.
- An eight-foot planting strip and eight-foot sidewalk will be provided along all street frontages.

- **Public Plans and Policies**

- The *University City Area Plan (2015)* recommends transit oriented development in this location and establishes design, mobility and open space policies.
  - The proposed land use is consistent with the recommended transit oriented land use. However, the site design is inconsistent with many of the plan's design, mobility, and open space policies. The street frontage along the first block of Periwinkle Hill Avenue is a designated ground floor retail street and should be built to accommodate non-residential ground floor uses, and parking structures should be lined with active uses or screened from view from streets and sidewalks. The site should provide useable open space, with pedestrian connections from the mixed use area to Ikea Boulevard and the approved auto mall open space and pedestrian paths. Street cross-sections and setbacks should adhere to the transportation policies.
- 

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

- **Charlotte Area Transit System:** No issues.
  - **Charlotte Department of Neighborhood & Business Services:** Developer must comply with the City's Housing Policies if seeking public funding
  - **Transportation:** No issues.
  - **Charlotte Fire Department:** No comments received.
  - **Charlotte-Mecklenburg Schools:** No comments received.
  - **Charlotte-Mecklenburg Storm Water Services:** No issues.
  - **Charlotte Water:** No issues.
  - **Engineering and Property Management:** No issues.
  - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
  - **Mecklenburg County Parks and Recreation Department:** No issues.
  - **Urban Forestry:** No issues.
- 

**OUTSTANDING ISSUES**

- The petitioner should:
  1. Amend Note 3(a)(2) as follows: "Drive-through facilities permitted as an accessory use by Section 9.1207 of the zoning ordinance will be constructed so as not to be visible from public streets."
  2. Amend Note 3(a)(4) to also refer to Development Area 2.
  3. Amend Note 5c to refer pedestrian access from the street to a main building entrance per 100 linear feet of street frontage, or part thereof, at level no more than three feet above or below sidewalk grade.
  4. Amend Note 5b and Note 5d to also apply to Development Area 2, unless used as open space.

5. Amend Note 3(a)(6) to delete the following: "Notwithstanding the foregoing, in the event that Development Area 3 is expanded to N. Tryon Street as provided below in paragraph b, this restriction shall not apply to Development Area 3."
6. Amend Note 2b to delete the following: "The regulations established under the TOD-M zoning district shall govern the development and use of the site."
7. Amend Note 2c to delete the following: "and public/private street frontage requirements."
8. Amend Note 3(a)(4) to specify whether the mix of uses will be provided in a single building or in multiple buildings.
9. Amend footnote under Permitted Uses (Section 3) as follows: "The extension of Proposed Public Street B to N. Tryon Street as depicted on the rezoning plan shall only be required if the right-of-way is abandoned and acquired by the petitioner or its successor in interest, and such extension of Proposed Public Street B shall be completed prior to the issuance of a certificate of occupancy for the first building constructed in the former right-of-way area. However, Proposed Public Street B will be constructed to the right-of-way as shown on the site plan if the right-of-way is not acquired."
10. Amend Note 4e as follows: "Surface parking lots will be located to the rear of buildings on Periwinkle Hill Avenue in Development Area 1 and Development Area 2. Notwithstanding the foregoing, driveways may connect internal parking lots in Development Area 1 and Development Area 2 to Periwinkle Hill Avenue and reference point A-B on Tyner Drive."
11. Amend Notes 5e and 5h to delete "where feasible."
12. Amend Note 5j to specify how swimming pools located along public streets will be screened from view from the street and sidewalk.
13. Amend Note 5k as follows: "The first floors with nonresidential uses shall have a minimum floor-to-floor ceiling height of 12 feet."
14. Delete Note 5(l)(d) as it does not apply to long continuous buildings.
15. Notes 5(l) (a-c) need more specificity. As an option use zoning ordinance language pertaining to pedestrian districts.
16. Amend Note 6a to delete "in effect as of the date of approval of this rezoning petition" and replace with the following: "or more recent standards for the site."
17. Amend Note 6b to state "residential uses along local streets shall have a minimum 20-foot setback from the back of curb, with the exception of provisions allowed by the ordinance."
18. Additional commitments are needed to sufficiently address how useable open space to be located between Parcels 2 and 4 will be provided.
19. Add a note that there will be no building on top of parking podium that is unwrapped and at ground level.

---

**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Department Comments
  - Charlotte Area Transit System Review
  - Charlotte Department of Neighborhood & Business Services Review
  - Transportation Review
  - Charlotte-Mecklenburg Storm Water Services Review
  - Charlotte Water Review
  - Engineering and Property Management Review
  - Mecklenburg County Land Use and Environmental Services Agency Review
  - Mecklenburg County Parks and Recreation Review
  - Urban Forestry Review

**Planner:** Sonja Strayhorn Sanders (704) 336-8327