

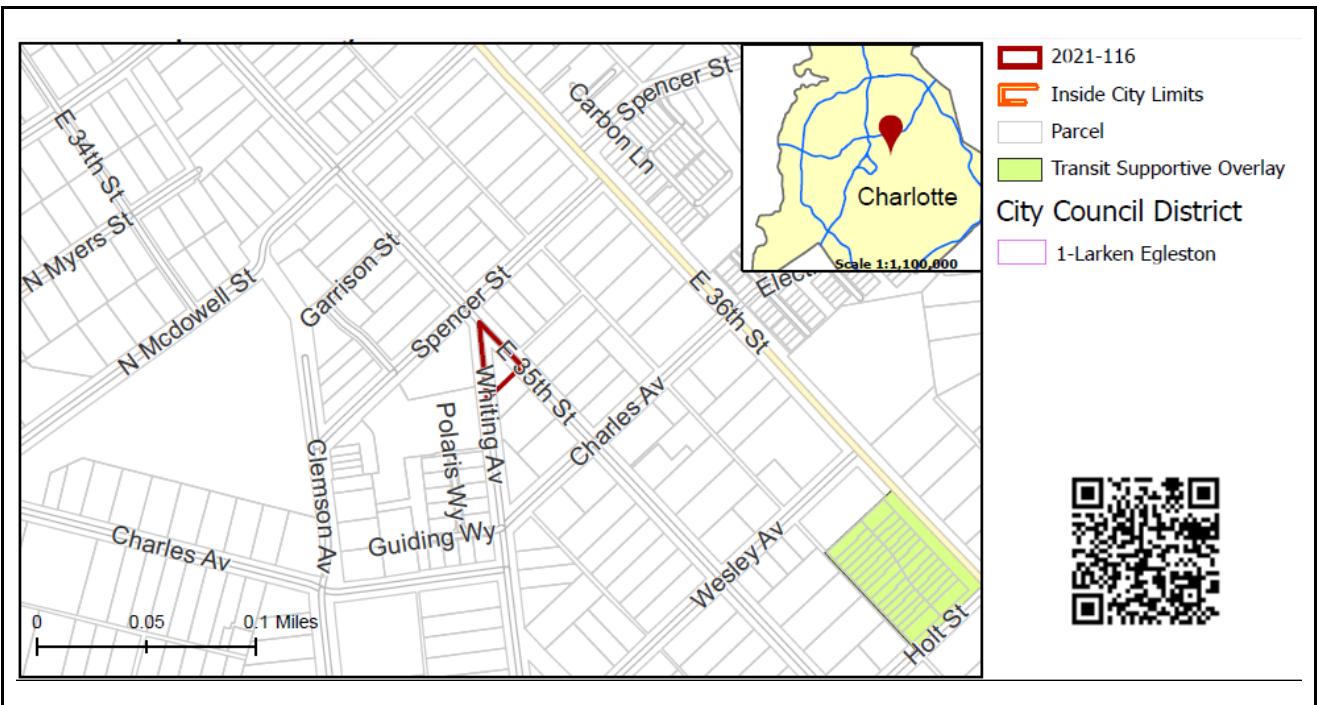
REQUEST

Current Zoning: R-5 (single family residential)

Proposed Zoning: MUDD-O (mixed use development-optional)

LOCATION

Approximately 0.05 acres located at the intersection of East 35th Street and Whiting Avenue, southeast of North McDowell Street.



SUMMARY OF PETITION

The petition proposes to allow the expansion of an existing commercial building and optional provisions related to architectural standards, parking, streetscape, and sight triangles.

PROPERTY OWNER

Kevin Matthew Boyd

PETITIONER

Kevin Boyd

AGENT/REPRESENTATIVE

Collin Brown and Brittany Lins/Alexander Ricks PLLC

COMMUNITY MEETING

Meeting is required and has been held. Report will be available online when received.

Number of people attending the Community Meeting: 21

**STAFF
RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **inconsistent** with the *36th Street Transit Station Area Plan's* (2013) recommendation for residential uses up to five dwelling units per acre (DUA).

Rationale for Recommendation

- The petition limits the number of uses to be allowed on the site by right and under prescribed conditions.
- The refuse area has been moved away from the abutting single family residential lot.
- A fence or landscaping is proposed to screen the rezoning site from the abutting single family residential lot.

- The petition furthers the 36th Street Transit Station Area Plan's goal of "preserving neighborhood character while encouraging a development pattern that supports continued transformation to a vibrant, urban environment".
- Adaptive reuse of an existing building will protect and enhance the existing neighborhood character.
- The petition's limitation of building height to 40 feet is consistent with the plan's desired height for development in this area.

The approval of this petition will revise the adopted future land use as specified by the *36th Street Transit Station Area Plan*, from residential uses up to five dwelling units per acre to retail uses for the site.

PLANNING STAFF REVIEW

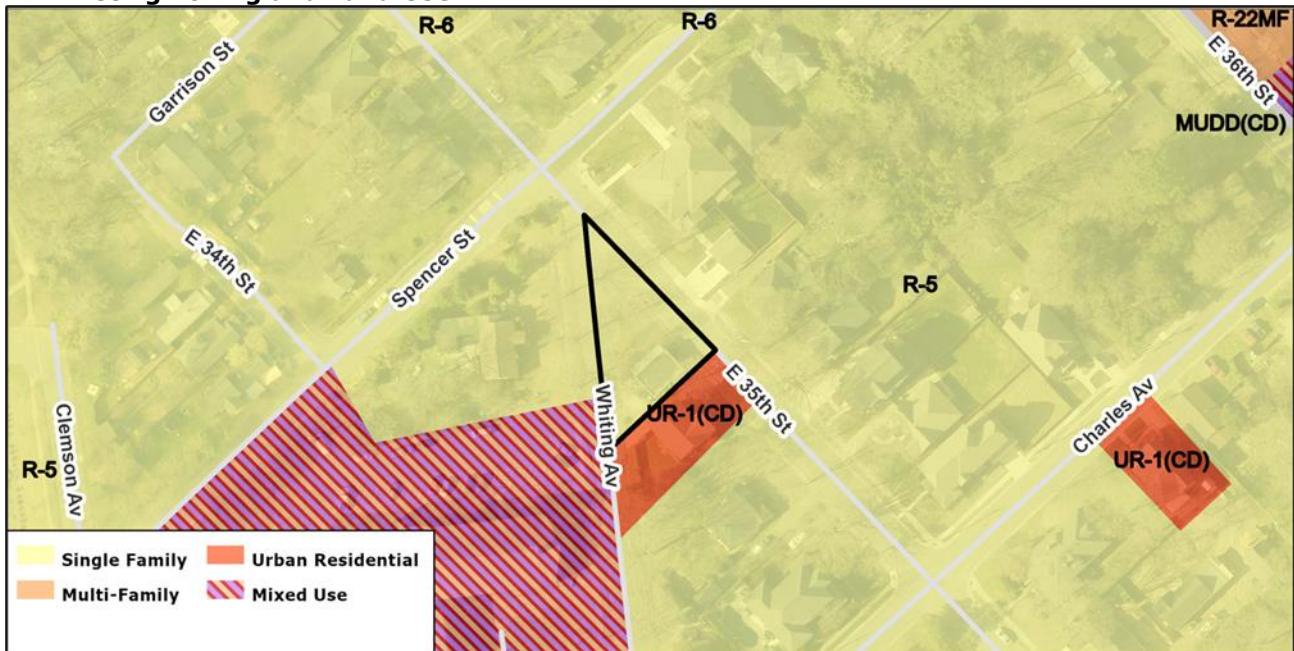
• Proposed Request Details

The site plan accompanying this petition contains the following provisions:

- Allows adaptive reuse of an existing 740 square foot commercial building with a potential minor future expansion of 60 square feet (total 800 square feet).
- ~~Allows all uses by right or under prescribed conditions in MUDD.~~
- ~~Prohibits a gas station, self storage building, or accessory drive through window.~~
- Proposes to allow the following uses by right and under prescribed conditions: Buildings for dramatic, musical, or cultural activities; Bicycle-sharing station; Small-scale class learning businesses such as culinary school, piano school, and similar categories of small-scale schooling; Donation drop-off facility; EDEEs Type 1 and Type 2 - [if on-premises alcoholic beverage service is included, food service must also be provided](#); Arcade uses as part of an ice-cream/candy shop or similar small-scale indoor amusement; Indoor recreation; Institutional uses, limited to churches, synagogues, parish houses, Sunday school buildings, convents, community recreation centers, libraries, museums, theaters, or art galleries; Outdoor fresh produce stands and mobile produce market; Outdoor seasonal sales; Outside open market; Parks, greenways, and arboretums; Pet services indoor; Professional business and general offices, excluding post offices; Retail sales limited to uses permitted in the B-1 district; Services such as beauty shops and barbershops up to 4,500 square feet, and locksmiths; Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry; Theaters, motion pictures; YMCAs, buildings for social, fraternal, social service, union and civic organizations, and comparable organizations.
- Limits building height to 40 feet.
- Limits hours of operation to 7:00 a.m. to 10:00 p.m.
- [Notes outdoor amplified sound shall not be permitted.](#)
- Notes that if applicable, any ventilation/fan associated with food and beverage uses will be located either on the roof of the building or on the Whiting Avenue or 35th Street frontages, not located at the rear of the building adjacent to single-family use.
- Illustrates locations of existing trees to be removed.
- Dumpsters, HVAC and related mechanical equipment will be screened from public view at grade from all the public streets.
- Notes landscaping and screening shall be provided along the property line adjacent to the single-family lot as noted on the Rezoning Plan. The screening and landscaping shall comply as required under the Ordinance and, at a minimum either a 6-foot tall fence or enhanced landscape screening using a combination of evergreen trees and shrubs. If landscaping is utilized for screening, trees shall be installed at a minimum height of six (6) feet and shrubs shall be installed a minimum height of thirty-six (36) inches.
- Notes proposed accessible ramps.
- Proposes the following optional provisions:
 - Allow the existing building to remain without being required to come into conformance with architectural design standards under the MUDD zoning district. For the sake of clarity, if the existing building is demolished (other than by casualty, acts of God, etc.) and a new building is constructed on the Site, the new building(s) must conform with MUDD design standards.
 - Eliminate the parking requirement for uses contained in the existing building, potential expansion, and outdoor uses. For the sake of clarity, if the existing building is demolished (other than by casualty, acts of God, etc.) and a new building is constructed on the Site, the new building(s) must meet parking standards as required under the Ordinance.
 - Allow deviations from the typical streetscape requirements, as generally depicted on the Rezoning Plan, in coordination with CDOT.

- Allow deviations from the sight triangle requirements as generally depicted on the Rezoning Plan.
- Allow the existing building to encroach into the 14' setback as generally depicted on the Rezoning Plan. *In the event that the existing building is completely demolished, new construction will comply with MUDD setback requirements.*

- **Existing Zoning and Land Use**



The rezoning site is developed with a 1-story commercial building constructed in 1945 and surrounded by residential and institutional uses zoned R-5 and UR-1.



The site is developed with a 1-story commercial building constructed in 1945.

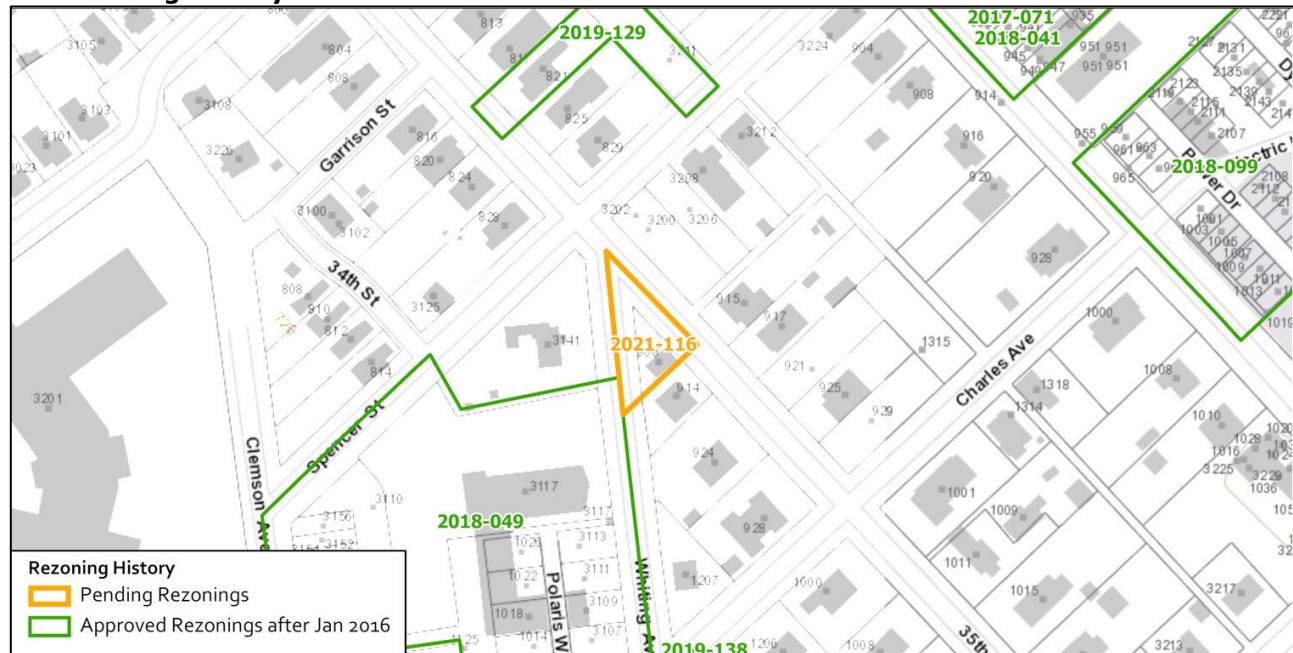


The rezoning site abuts a single family residential home.



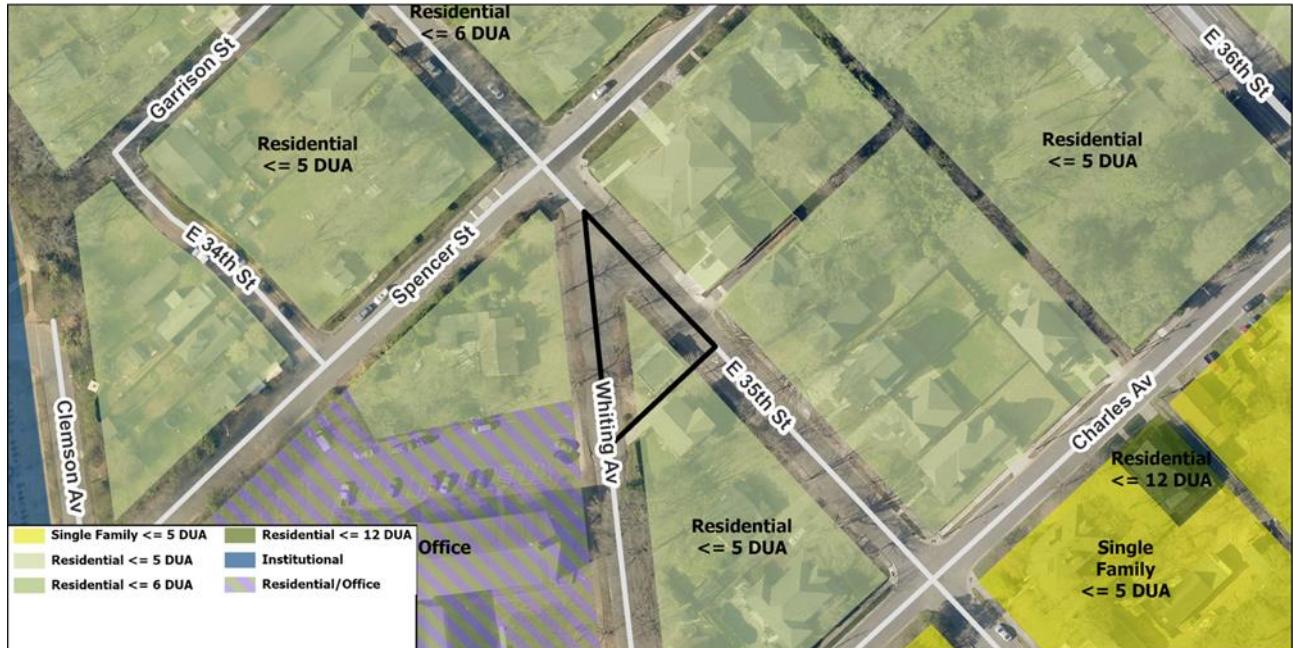
The rezoning site is immediately surrounded by residential and institutional uses.

• Rezoning History in Area



Petition Number	Summary of Petition	Status
2019-138	Rezoned 0.55 acres from R-5 to R-8(CD) to allow 4 detached residential dwelling units.	Approved
2019-129	Rezoned 0.34 acres from R-5 to R-6.	Approved
2018-099	Rezoned 3.5 acres from R-5 and R-8MF(CD) to MUDD(CD) to allow up to 65 townhomes.	Approved
2018-049	Rezoned 2.57 acres from R-5 to MUDD-O to allow up to 18 attached and/or detached dwelling units and up to 17,000 square feet of uses allowed in MUDD.	Approved
2017-071	Rezoned 1.5 acres from R-5 and R-22MF to UR-2(CD) to allow up to 22 townhome units and 2 single family residential units.	Approved

• Public Plans and Policies



The 36th Street Transit Station Area Plan recommends residential uses up to five dwelling units per acre for the site.

- **TRANSPORTATION SUMMARY**

- The petition is located at the intersection of Whiting Avenue, a City-maintained local street and East 35th Street, a City-maintained local street. A Traffic Impact Study (TIS) is not needed for this site. In accordance with Charlotte Walks and the Transportation Action Plan, pedestrian connectivity is maintained on and adjacent to the site with the minimum 6-foot planting strip, 6-foot sidewalk, and paved plaza area. The petitioner is also constructing curb ramps to safely connect pedestrians from the site to the opposite site of East 35th Street and Whiting Avenue. All CDOT comments have been addressed.
- Active Projects:
 - Sidewalk Gaps & Ramps project on Spencer St between 36th St and 35th
 - PM Becky Chambers

- **Transportation Considerations**

- No outstanding issues.

- **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 10 trips per day (based on 1 single family dwelling unit).

Entitlement: 0 trips per day (based on 0 dwellings).

Proposed Zoning: 235 trips per day (based on 800 sq ft retail).

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** Not applicable
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 6-inch water distribution main located along E 35th St. Charlotte Water has accessible sanitary sewer system infrastructure for the rezoning boundary via an existing 8-inch gravity sewer main located along E 35th St. See advisory comments at www.rezoning.org
- **City Arborist:** No comments submitted.
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at www.rezoning.org
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** No outstanding issues.
- **Urban Forestry:** See Outstanding Issues, Note 7. Addressed

OUTSTANDING ISSUES

Site and Building Design

1. The existing building encroaches in the 14' setback required by MUDD standards. Petitioner needs to add an optional provision requesting that the building be allowed to remain with the existing setback. Language needs to be included to state any expansion will comply with the required MUDD setback, and that in the event existing building is demolished new construction will comply with MUDD setback. Not addressed. Add language stating in the event existing building is demolished new construction will comply with MUDD setback. Addressed
2. The refuse area is not an ideal location given its proximity to the abutting single family residence. Please relocate to an area to the side of the building and continue to provide enclosure and screening. Addressed
3. Add additional evergreen screening on the opposite side of the refuse area similar to what is proposed on the Whiting Ave. frontage. Addressed
4. Provide additional screening through vegetation or fencing along the property line adjacent to the single family residence. Addressed
5. Label on site plan if identified sidewalks and plantings are existing or proposed. Not Addressed. Proposed sidewalk labeled. Label planting strip existing or proposed. Addressed
6. Please further limit the uses under MUDD to better align with the desired outcome of the site. All uses in MUDD is too broad. Addressed

Environment

7. Remove note stating City trees will be removed. City trees are required to be preserved. Preservation status to be determined at time of land development permitting. **Addressed**

See Attachments (applications, department memos, maps etc.) Online at www.rezoning.org

Planner: Claire Lyte-Graham (704) 336-3782

Goals Relevant to Rezoning Determinations

Rezoning Petition # 2021-116

The following table represents an overview of the relationship between the **Charlotte Future 2040 Comprehensive Plan** and **Rezoning Petitions**. This is an evolving analysis that is expected to be refined when **Policy Mapping** is completed and adopted (anticipated early 2022).

Please note: not all goals will apply to all rezoning petitions.

Goals	Goal Description	Relationship to Charlotte Future 2040 Comprehensive Plan
	<p>Goal 1: 10- Minute Neighborhoods All Charlotte households should have access to essential amenities, goods, and services within a comfortable and tree-shaded 10-minute walk, bike, or transit trip by 2040. Not all neighborhoods are expected to include every essential amenity, good, or service, but every resident should have access within a ½ mile walk or a 2-mile bike or transit ride.</p>	✓
	<p>Goal 2: Neighborhood Diversity & Inclusion Charlotte will strive for all neighborhoods to have a diversity of housing options by increasing the presence of middle density housing (e.g. duplexes, triplexes, fourplexes, townhomes, accessory dwelling units, and other small lot housing types) and ensuring land use regulations allow for flexibility in creation of housing within existing neighborhoods.</p>	✗
	<p>Goal 3: Housing Access for All Charlotte will ensure opportunities for residents of all incomes to access affordable housing through the preservation of naturally occurring affordable and workforce housing and increasing the number of affordable and workforce housing units through new construction.</p>	✗
	<p>Goal 4: Trail & Transit Oriented Development (2-TOD) Charlotte will promote moderate to high-intensity, compact, mixed-use urban development along high-performance transit lines and near separated shared-use paths or trails.</p>	N/A

	<p>Goal 5: Safe & Equitable Mobility Charlotte will provide safe and equitable mobility options for all travelers regardless of age, income, ability, race, where they live, or how they choose to travel. An integrated system of transit and tree-shaded bikeways, sidewalks, shared-use paths, and streets will support a sustainable, connected, prosperous, and innovative network that connects all Charlotteans to each other, jobs, housing, amenities, goods, services and the region.</p>	<p>N/A</p>
	<p>Goal 6: Healthy, Safe & Active Communities All Charlotteans will live and work in safe and resilient neighborhoods that enable healthy and active lifestyles by reducing exposure to harmful environmental contaminants, expanding and improving the quality of tree canopy, encouraging investment in walking, cycling, and recreation facilities, and providing access to healthy food options and healthcare services.</p>	<p>N/A</p>
	<p>Goal 7: Integrated Natural & Built Environments Charlotte will protect and enhance its surface water quality, tree canopy, and natural areas with a variety of trees, plantings, green infrastructure, green building practices, and open space at different scales throughout the entire community as a component of sustainable city infrastructure that addresses the threat of climate change.</p>	<p>N/A</p>
	<p>Goal 8: Diverse & Resilient Economic Opportunity Charlotteans will have opportunity for upward economic mobility through access to a diverse mix of jobs and careers that align with education and skill levels of residents and the economic strengths of the region.</p>	<p>N/A</p>
	<p>Goal 9: Retain Our Identity & Charm Charlotte will cultivate community-driven placemaking and identity, while limiting displacement and retaining the essence of existing neighborhoods by intentionally directing redevelopment.</p>	<p>✓</p>
	<p>Goal 10: Fiscally Responsible Charlotte will align capital investments with the adopted growth strategy and ensure the benefit of public and private sector investments benefit all residents and limit the public costs of accommodating growth</p>	<p>N/A</p>