

# **City of Charlotte**

*Charlotte-Mecklenburg Government Center  
600 East 4th Street  
Charlotte, NC 28202*



## **Zoning Agenda**

**Tuesday, June 1, 2021**

**Charlotte-Mecklenburg Government Center - Virtual  
Meeting**

### **Zoning Committee Work Session**

***Keba Samuel - Chairperson***

***Erin Barbee***

***Andrew Blumenthal***

***Peter Kelly***

***Elizabeth McMillian***

***Victoria Nwasike***

***Douglas Welton***

Zoning Committee Work Session

Zoning Items

**1. Rezoning Petition: 2021-110 by Charlotte Planning, Design, & Development - Text Amendment**

**Summary of Petition:**

This Text Amendment proposes to update the Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with Chapter 160D; 2) updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner; 3) updates the processes for filing applications, notice requirements, evidentiary hearing provisions and quasi-judicial procedures; and 4) adds conflict of interest standards for boards and administrative staff.

**Public Hearing Held:** May 17, 2021 - Item #22

**Staff Resource:** [Sandra Montgomery](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

## **2. Rezoning Petition: 2021-109 by Charlotte Planning, Design, & Development**

This Text Amendment proposes to update the Subdivision Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with new Chapter 160D legislation; 2) adds conflict of interest standards for boards, commissions, and administrative staff; 3) adds a requirement for written notices of decisions on preliminary plans and final plats, to be provided to the applicant and the property owner, if different; 4) modifies the performance guarantee regulations; 5) adds requirements for inspectors to present proper credentials prior to inspections, and that proper consent must be given to inspect areas not open to the public or an appropriate inspection warrant must be secured; 6) adds and modifies definitions, and 7) adds text that notifications of decisions sent by first-class mail are deemed received on the third business day for the purposes of filing an appeal.

**Public Hearing Held:** May 17, 2021 - Item #23

**Staff Resource:** [Sandra Montgomery](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

## **3. Rezoning Petition: 2021-113 by Charlotte Planning, Design, & Development - Text Amendment**

**Summary of Petition:**

This Text Amendment proposes to update the Charlotte Tree Ordinance to bring it into compliance by July 1, 2021 with the requirements of North Carolina General Statute 160D. The text amendment 1) updates N.C.G.S. references to align with Chapter 160D legislation; 2) updates the processes and requirements for enforcement procedures; 3) updates the requirements for administrative decisions, evidentiary hearings and quasi-judicial procedures; 4) adds new vested rights and permit choice rules; and 5) adds conflict of interest standards for boards and administrative staff.

**Public Hearing Held:** May 17, 2021 - Item #24

**Staff Resource:** [Sandra Montgomery](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

#### **4. Rezoning Petition: 2021-107 by Charlotte Planning, Design, & Development - Text Amendment**

**Summary of Petition:**

This Text Amendment proposes to update the Mecklenburg County Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (known as Chapter 160D) effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with Chapter 160D legislation; 2) updates the processes and requirements for zoning map amendments, conditional rezoning, variances, appeals, certificates of appropriateness, administrative amendments; 3) updates the requirements for notices for hearings and decisions, evidentiary hearing and quasi-judicial procedures, and permit and enforcement procedures; 4) adds new vested right and permit choice rules; and 5) adds conflict of interest standards for boards and administrative staff.

**Staff Resource:** [Sandra Montgomery](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

#### **5. Rezoning Petition: 2017-118 by Phillips Investments Properties**

**Location:** Approximately 0.78 acre located on the west side of Statesville Road, north of Cindy Lane.  
(Council District 2 - Graham)

**Current Zoning:** R-4 (single-family residential)

**Proposed Zoning:** B-2 (CD) (general business, conditional) with five-year vested rights

**Public Hearing Held:** May 17, 2021 - Item #25

**Staff Resource:** [Michael Russell](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Site Plan  
Statement of Consistency



## 6. Rezoning Petition: 2020-192 by White Point Partners

**Location:** Approximately 3.50 acres located along the east side of Camden Road, north of East Boulevard, and west of South Boulevard. (Council District 3 - Watlington)

**Current Zoning:** TOD-UC (transit-oriented development - urban center)

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

**Public Hearing Held:** May 17, 2021 - Item #26

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

## 7. Rezoning Petition: 2020-197 by The Paces Foundation, Inc.

**Location:** Approximately 4.54 acres located along the south side of Elmin Street, on the north side of West Boulevard, east of Old Steele Creek Road. (Council District 3 - Watlington)

**Current Zoning:** R-5 (single-family residential) and R-8 (single-family residential)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #27

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

## 8. Rezoning Petition: 2021-007 by Pakchanok Lettsome

**Location:** Approximately 0.2 acre located near the intersection of E. 17th Street and Seigle Avenue in the Belmont Community. (Council District 1 - Egleston)

**Current Zoning:** R-5 (single-family residential)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #28

**Staff Resource:** [Will Linville](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

## 9. Rezoning Petition: 2021-009 by Edward Judson McAdams

**Location:** Approximately .59 acre located at 2100 Matheson Avenue, directly adjacent to Charlotte Country Club. (Council District 1 - Egleston)

**Current Zoning:** R-3 (single-family residential)

**Proposed Zoning:** R-4 (single-family residential)

**Public Hearing Held:** May 17, 2021 - Item #29

**Staff Resource:** [Will Linville](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Statement of Consistency

## 10. Rezoning Petition: 2021-010 by Madison Capital Group

**Location:** Approximately 4.9 acres located north of Wilkinson Boulevard, south of Arty Drive, and west of Berryhill Road. (Council District 3 - Watlington)

**Current Zoning:** B-1 (neighborhood business, O-2 (office), and R-22 MF (multi-family residential)

**Proposed Zoning:** TOD-NC (transit-oriented development - neighborhood center)

**Public Hearing Held:** May 17, 2021 - Item #30

**Staff Resource:** [Lisa Arnold](#)

**Attachments:**

Post-Hearing Staff Analysis

Statement of Consistency

## 11. Rezoning Petition: 2021-013 by Hebron Road Holdings, LLC

**Location:** Approximately 8.25 acres bound by Old Hebron Road and Hebron Street, east of Nations Ford Road, and west of South Boulevard. (Council District 3 - Watlington)

**Current Zoning:** I-1 (light industrial)

**Proposed Zoning:** I-2 (general industrial)

**Public Hearing Held:** May 17, 2021 - Item #31

**Staff Resource:** [John Kinley](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Statement of Consistency

## 12. Rezoning Petition: 2021-015 by Exponential Development, LLC

**Location:** Approximately 2.56 acres located in the northeastern corner of the intersection of West Boulevard and Holabird Lane. (Council District 3 - Watlington)

**Current Zoning:** B-1S (CD) (business shopping center, conditional)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #33

**Staff Resource:** [Joe Mangum](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition upon resolution of an outstanding issue related to transportation.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

## 13. Rezoning Petition: 2021-022 by OMS Dilworth, LLC

**Location:** Approximately 1.14 acres located in the western quadrant of the intersection of Cleveland Avenue and Worthington Avenue, east of South Boulevard. (Council District 1 - Egleston)

**Current Zoning:** TOD-M(O) (transit-oriented development - mixed use, optional)

**Proposed Zoning:** TOD-NC (transit-oriented development - neighborhood center)

**Public Hearing Held:** May 17, 2021 - Item #34

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Statement of Consistency

## **14. Rezoning Petition: 2021-030 by Lucern Capital Partners**

**Location:** Approximately 2.55 acres located on the east side of Research Drive, north of West W. T. Harris Boulevard, and west of Interstate 85. (Council District 4 - Johnson)

**Current Zoning:** O-1 (CD) (office, conditional)

**Proposed Zoning:** RE-3(O) (research, optional)

**Public Hearing Held:** May 17, 2021 - Item #35

**Staff Resource:** [Michael Russell](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

## **15. Rezoning Petition: 2021-031 by Halley Douglas, Inc.**

**Location:** Approximately 0.23 acre located on the north side of Laurel Avenue, east of Providence Road, and west of Randolph Road. (Council District 1 - Egleston)

**Current Zoning:** R-5 (single-family residential)

**Proposed Zoning:** R-8 (CD) (single-family residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #36

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition upon resolution of outstanding issues related to site and building design.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency



**Agenda Date:** 6/1/2021

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**Agenda #:** 1. **File #:** 15-15833 **Type:** Zoning Item

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## **Rezoning Petition: 2021-110 by Charlotte Planning, Design, & Development - Text Amendment**

### **Summary of Petition:**

This Text Amendment proposes to update the Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with Chapter 160D; 2) updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner; 3) updates the processes for filing applications, notice requirements, evidentiary hearing provisions and quasi-judicial procedures; and 4) adds conflict of interest standards for boards and administrative staff.

**Public Hearing Held:** May 17, 2021 - Item #22

**Staff Resource:** [Sandra Montgomery](#)

### **Staff Recommendation:**

Staff recommends APPROVAL of this petition.

### **Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

<b>REQUEST</b>	Text amendment to the Charlotte Zoning Ordinance, Sections 1.102, 1.105, 1.110, 1.111, 2.102, 2.202, 3.202, 3.203, 3.204, 3.301, 3.302, 3.303, 3.304, 3.401, 3.402, 3.403, 3.404, 3.501, 3.602, 3.605, 3.606, 4.102, 4.103, 5.101, 5.103, 5.107, 5.110, 5.113, 6.105, 6.108, 6.109, 6.110, 6.111, 6.113, 6.201, 6.204, 6.205, 6.206, 6.207, 6.209, 7.103, 8.102, 8.107, 9.104, 9.407, 9.805, 9.906, 9.1006, 9.1007, 10.203, 10.208, 10.209, 10.210, 10.213, 10.216, 10.509, 10.510, 10.609, 10.610, 10.710, 10.711, 12.103, 12.509, 13.4, 13.10, 13.11, 13.12, 13.15, 15.8.4, Table of Contents Chapter 13, Table of Contents – Zoning Ordinance.
<b>SUMMARY OF PETITION</b>	The text amendment proposes to update the Charlotte Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to development by the July 1, 2021 deadline.
<b>PETITIONER</b>	Charlotte Planning, Design & Development
<b>AGENT/REPRESENTATIVE</b>	Charlotte Planning, Design & Development
<b>COMMUNITY MEETING</b>	Meeting is not required.

<b>STAFF RECOMMENDATION</b>	<p>Staff recommends approval of this petition.</p> <p><u>Plan Consistency</u> The text amendment is <b>consistent</b> with 2019 and 2020 North Carolina General Assembly legislation.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation.</li> <li>• The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;</li> <li>• The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures;</li> <li>• The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner;</li> <li>• The text amendment adds new conflict of interest standards for boards and administrative staff; and</li> <li>• The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.</li> </ul>
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#### **PLANNING STAFF REVIEW**

- **Background**
  - In 2019, the North Carolina General Assembly adopted new land use legislation consolidating previous city enabling statutes (Article 19 of Chapter 160A) and county enabling statutes (Article 18 of Chapter 153A) and into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.

- Chapter 160D legislation becomes effective July 1, 2021, or takes effect for a jurisdiction when local ordinances are updated and adopted, if adopted prior to July 1, 2021.
- This text amendment updates the Charlotte Zoning Ordinance to align zoning regulations and processes related to land use to meet the July 1, 2021 deadline.

- **Proposed Request Details**

The text amendment contains the following highlights:

General

- Updates North Carolina General Statute references to align with the new N.C.G.S Chapter 160D references.
- Requires all development approvals and decisions (including variances, appeals, certificates of appropriateness, administrative amendments, alternative compliance, site plan approvals, conditional zoning approvals, and zoning permits) to be written and provided to the applicant and property owner, if different.

Chapter 1

- Updates vested rights by adding multi-phased development with an extended vesting of up to seven (7) years.
- Adds new details on the permit choice rule for vested rights.
- Adds new conflict of interest standards for boards, appointed boards, and administrative staff.

Chapter 2

- Updates definitions for "building", "dwelling unit", "manufactured home", and deletes the definition for "mobile home", to align with legislation.
- Adds new definitions for "conditional zoning" and "dwelling" per legislation.

Chapter 3

- Requires rules of procedures for appointed boards to be posted on the website and available at the City Clerk's office, in addition to the office of the Charlotte Planning, Design, and Development Department.
- Updates the duties of the Board of Adjustment to include decisions on appeals regarding a certificate of appropriateness. (Also in Chapter 5)
- Modifies the terminology of the historic district "guidelines" to historic district "standards". (Also in Chapter 10)
- Requires the Historic District Commission to follow updated statutory procedures for evidentiary hearings and quasi-judicial decisions.

Chapter 4

- Updates the entities that can apply for a building permit to include property owners, a lessee or person holding an option or contract to purchase or lease land, an authorized agent of the property owner, or an easement holder (for development authorized by the easement).
- Requires building permits to be issued in writing, in print or electronic form, and protected from further editing.
- Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.
- Requires a certificate of compliance and/or certificate of occupancy before using any land, building or structure or any change of use, except for agricultural purposes.

Chapter 5

- Updates the duties of the Board of Adjustment to include decisions on appeals regarding a certificate of appropriateness.
- Updates the appeal procedures adding that if the administrative materials are forwarded to the Board of Adjustment prior to the hearing, they shall at the same time be distributed to the applicant and property owner, if different.
- Updates the statutory procedures for evidentiary hearings and quasi-judicial decision.

Chapter 6

- Requires that down-zoning of property must have the written consent of all property owners, with the exception of those initiated by government or the property owner(s).
- Modifies the administrative amendment process by not permitting changes that increase the intensity and density of the development.
- Updates the notice of hearing provisions for zoning map amendments (rezoning petitions) and text amendments to the City Zoning Ordinance.
- Adds requirements for the City Council to adopt a statement of reasonableness for a zoning map amendment and a statement of plan consistency.
- Requires a petitioner to provide written consent to all conditions attached to the approval of a conditional rezoning.



Chapter 7

- Deletes the term, “mobile home” from the non-conforming regulations, leaving the term “manufactured home” in the text.

Chapter 8

- Requires a notice of violation to be provided to the property owner as well as the violator, and provides options for delivery of the notice or posting on the property.

Chapter 9

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 10

- Updates the statutory procedures for evidentiary notices, hearings, decisions, and procedures for the Historic District Commission and the Board of Adjustment.

Chapter 11

- No changes.

Chapter 12

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 13

- Updates the procedures for issuing or denying a sign permit and provides options for delivery of the permit or decision to the applicant and property owner, if different from the applicant.
- Requires sign permits to be issued in print or electronic form, and for permits issued exclusively in electronic form, the form shall be protected from further editing once issued.
- Updates the procedures for providing a written notice of the decision for a Planned Development Flexibility Option to the applicant and property owner, if different from the applicant.
- Requires written notices of violation to be provided to the permit holder and to the property owner, if different from the applicant, and that the notice may be posted on the property.

Chapter 14

- No changes.

Chapter 15

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

Chapter 16

- No changes.

Appendix

- No changes

- **Public Plans and Policies**

- The North Carolina General Statute legislation requires the Charlotte Zoning Ordinance to become compliant with N.C.G.S Chapter 160D regulations by July 1, 2021.

- **TRANSPORTATION SUMMARY**

- **Transportation Considerations**
  - No comments submitted.

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

- **Charlotte Area Transit System:** No comments submitted.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** Not applicable.
- **Charlotte Water:** No comments submitted.

- **City Arborist:** No comments submitted
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments submitted.
- **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:** No outstanding issues.

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See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)

**Planner:** Sandra Montgomery (704) 336-5722

# **2021-110 TEXT AMENDMENT SUMMARY**

## **CHARLOTTE ZONING ORDINANCE**

### **5/20/21**

This document summarizes the changes proposed to the Charlotte Zoning Ordinance through petition 2021-110. Only the sections being revised are shown in the summary. Text to be added is in red and underlined. Text to be deleted is in red and struck through. The full ordinance, with the changes shown in the ordinance, can be found on the webpage for [rezoning petition 2021-110](#) on the Charlotte Planning, Design & Development website.

*(For all Chapters listed herein, section and subsection listings not shown remain unchanged)*

## **CHAPTER 1 PURPOSE AND APPLICABILITY**

### **Section 1.102. Authority and purpose.**

These regulations are adopted pursuant to the authority granted to the City of Charlotte by Chapter ~~160A, Article 19~~160D, Articles 1 through 14, of the General Statutes of North Carolina, and by any special local legislation enacted by the General Assembly for the City of Charlotte, in order to carry out the purposes listed below:

### **Section 1.105. Exceptions to applicability.**

- (1) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. ~~160A-422~~160D-403(f) and 160D-1115. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire pursuant to G.S. Sec. ~~160A-448~~160D-403(c) and 160D-1111 and any further work shall be subject to these regulations.
- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to

buildings and uses for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. ~~160A-418~~160D-403(c) and 160D-1111 and the building permit has not been revoked pursuant to G.S. Sec. ~~160A-422, 160D-403(f) and 160D-1115~~ or (b) a vested right has been established pursuant to Section 1.110 and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. ~~160A-417~~ 160D-403 and 160D-1110 shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. ~~160A-418~~ 160D-403(c) and 160D-1111 and G.S. Sec. ~~160A-422~~ 160D-403(f) and 160D-1115 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

**Section 1.110. Procedures for establishing a vested right and permit choice.**

**(1) Vested Rights**

Pursuant to G.S. §~~160A-385.1~~ 160D-102, 160D-108, and 160D-108.1, “Vested Rights”, a vested right to undertake and complete the development and use of the property under the terms and conditions as approved shall be established with respect to: ~~any property zoned as follows:~~

- (a) site-specific vesting plans (including conditional zoning district plans); ~~which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and~~
- (b) special-use permit, multi-phased developments pursuant to G.S. Section 160D-108(f);

~~The approved plans and conditions for districts constitute, for purposes of G.S. §160A-385.1, site specific development plans.~~

(c) development permits in accordance with N.C.G.S. 143-755; and

(d) the terms of development agreements authorized by N.C.G.S. 160D, Chapter 10.

(2) Period of Validity.

- (a) Site-Specific Vesting Plans: A vested right for a site-specific plan (including conditional district zoning plans), which has been vested as provided for in this section, shall remain vested for a period of ~~from~~ two to five years.

The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum, up to a period of five years where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations.

- (b) Multi-phased developments: A vested right for a development with multiple phases has an extended vesting period of seven years from the time the first site approval is granted for the initial phase. The development must be at least 25 acres in size; subject to a master development plan with committed elements showing the type and intensity of use for each phase; and is to be permitted and built in phases.

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development.

- (c) Development permits (including zoning permits, site plan approvals): Development approvals are valid for 12 months, unless work authorized

by the permit is substantially commenced.

- (d) Modifications or amendments to an approved site-specific plan or multi-phased development does not extend the period of vesting unless specifically so provided by the City Council when it approves the modification or amendment.

(3) Effect of a Vested Right.

- (a) A vested right, once established, precludes any action by the City Council that would modify, alter, impair, prevent, diminish, or delay the development or use of the property allowed by the applicable zoning regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.
- (b) The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.
- (c) A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property, except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 131.2 in which case the rights granted run with the owner of the permit issued by the North Carolina Department of Transportation.
- (d) New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right, shall become effective upon the expiration or termination of the vested rights.

(4) Expiration of a Vested Right

- (a) A right, which has been vested as provided in this Section 1.110, shall terminate at the end of the applicable vesting period with respect to

buildings and uses for which no valid building permit applications have been filed.

- (b) A vested right expires for 1) an uncompleted development project, and 2) a nonconforming use of property, if the development work or use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month period is tolled during any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property or the existence of the statutory vesting period.

(5) Permit Choice

- (a) If an applicant submits a permit application for development, and after application submission, but before a development permit decision is made, the Development Regulation is amended, then the applicant may choose which version of the Development Regulation applies to the application and use of land, as per G.S. 143-755.

If the applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Where multiple development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of approval of the initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or sign permit is not an initial development permit.

If a permit application is on hold for six consecutive months, then permit choice is waived. If an applicant resumes an application after six months of discontinuation, then the rules in effect at the time of resuming apply.

### **Section 1.111. Conflicts of Interest.**

- (1) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (2) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.



- (4) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (5) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (6) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

## **CHAPTER 2 DEFINITION AND RULES OF CONSTRUCTION**

### **Section 2.102 Interpretation of Zoning Maps**

#### **Part 2 Definitions**

*(Definitions not listed are unchanged)*

- (8) Interpretation of information on the zoning maps will be made by the Zoning Administrator. Appeals of the Zoning Administrator's interpretation may be made to the Board of Adjustment.

The Zoning Administrator will evaluate any alleged map error using all available materials and records. These materials may include, but are not limited to, the following:

*(Petition No. 2012-020, § 2.102, (05/14/2012))*

- (a) The tax map, current or historic.
- (b) Legal descriptions of properties or boundaries.

- (c) Historical zoning maps.
- (d) Zoning case history maps.
- (e) Tax records, current or historic.
- (f) Zoning ~~and special use permit~~ case files.
- (g) Official maps from other jurisdictions.
- (h) Topographic and planimetric maps and aerial photos.
- (i) Other documentable information.

#### Building.

~~A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods.~~ Any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy.

#### Conditional zoning.

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

#### Dwelling.

Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Minimum Housing Codes it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

#### Dwelling unit.

~~A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence~~

by at least one family. A single unit providing complete, independent living facilities for no more than one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Manufactured Home.

*(Petition No. 2006-94, § 2.201, 09/18/06)*

~~A structure, transportable in one or more sections, which meets all the following requirements:~~

- ~~(a) — Meets all of the requirements of the Federal Manufactured Home Construction and Safety Standards Act of 1974, which requires units built after June 15, 1976 to have a HUD certification label confirming it was built in conformance with the Act of 1974;~~
- ~~(b) — Is designed to be used as a dwelling unit;~~
- ~~(c) — Is eight feet or more in width, and or 40 feet or more in length; or, when erected on site, is 320 or more square feet;~~
- ~~(d) — Is built on a permanent chassis;~~
- ~~(e) — Is connected to required utilities during set up, including plumbing, heating, air conditioning and electrical systems contained therein;~~
- ~~(f) — When set up, it has a permanent foundation and skirting installed in accordance with the North Carolina Department of Insurance Regulations for Manufactured Home Installation Standards; and~~
- ~~(g) — Unless located in a manufactured home park, the moving hitch or tongue shall be removed upon set up.~~

~~A manufactured home that meets requirements (a) through (d) only, is still considered to be a manufactured home, even though it has not met requirements (e) through (g) until after it is set up.~~

A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the

requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

~~Mobile home.~~

~~(Petition No. 2006-94, § 2.201, 09/18/06)~~

~~A manufactured structure, designed to be used as a dwelling unit and built before June 15, 1976 (the date the HUD Construction and Safety Standards Act went into effect). A "mobile home" is designed to be transportable in one or more sections on its own chassis and measures at least 32 feet in length and at least eight feet in width. To be classified as a "mobile home", the unit must be placed on a permanent foundation.~~

Zoning Administrator.

The employee of the Charlotte-Mecklenburg Planning Department charged with the administration and interpretation of these regulations or his or her designee.

*(Petition No. 2005-78, § 2.201, 06/20/05)*

*(Petition No. 2012-020, § 2.201, 05/14/2012)*

## **CHAPTER 3 DECISION-MAKING AND ADMINISTRATIVE BODIES**

### **PART 2: PLANNING COMMISSION**

#### **Section 3.202. Membership; officers.**

Members and officers of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and

entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall comply with the conflict of interest standards in Section 1.111.

**Section 3.203. Meetings, hearings, and procedures.**

- (2) Any rules of procedure adopted by the Planning Commission shall be kept on file at by the office of the Charlotte Planning, Design and Development Department-Commission, and at the City Clerk's office and posted on the website.
- (6) ~~Planning Commission members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member~~  
~~(Petition No. 2006-16 §3.203(6), 03/20/06)~~

**Section 3.204. Staff.**

The staff for the Planning Commission shall be provided in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time.

Staff shall comply with the conflict of interest standards in Section 1.111.

**PART 3: BOARD OF ADJUSTMENT**

**Section 3.301. Powers and duties.**

- (1A) The Board of Adjustment shall have the authority to hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the City of Charlotte Historic District Commission.

**Section 3.302. Membership; officers.**

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the City Council procedures. Each member shall

comply with the conflict of interest standards in Section 1.111.

### **Section 3.303. Meetings, hearings and procedures.**

(2) Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the office of the Zoning Administrator and at the office of the City Clerk, and posted on the Charlotte Planning, Design & Development Department website. ~~a~~ A current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.

(5) The concurring vote of ~~four-fifths~~ a simple majority of the Board of Adjustment shall be necessary to grant a zoning variance, as per special legislation. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

*(Petition No. 2014-087 §3.303(5), 10/20/2014)*

(6) In determining appeals of administrative decisions and variances, the Board of Adjustment shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.

### **Section 3.304. Staff.**

The staff for the Board of Adjustment shall be provided by the Zoning Administrator.

Staff shall comply with the conflict of interest standards in Section 1.111.

## **PART 4: HISTORIC DISTRICT COMMISSION**

### **Section 3.401. Powers and duties.**

(2) To develop ~~guidelines~~ standards for development within

designated historic districts.

**Section 3.402. Membership; officers.**

Each member shall comply with the conflict of interest standards in Section 1.111.

**Section 3.403. Meetings, hearings, and procedures.**

(2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission, at the office of the City Clerk, and posted on the Charlotte Planning, Design, and Development website.

(6) In determining certificates of appropriateness, the Historic District Commission shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.

(7) All decisions of the Historic District Commission in granting or denying a certificate of appropriateness may be appealed to the Board of Adjustment. A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party within thirty (30) days of the receipt of the written notice of the determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

**Section 3.404. Staff.**

Staff shall comply with the conflict of interest standards in Section 1.111.

**PART 5: PROFESSIONAL STAFF**

**Section 3.501. Charlotte Planning Commission Staff; powers and duties.**

- (14) To comply with the Conflict of Interest standards in Section 1.111.

## **PART 6: ALTERNATIVE COMPLIANCE REVIEW BOARD**

*(Petition No. 2018-169 §Part 6, 04/15/2019)*

### **Section 3.602: Membership and officers.**

- (1) Each member shall comply with the conflict of interest standards in Section 1.111.

### **Section 3.605: Meetings and procedures.**

- (2) Any rules of procedure adopted by the Alternative Compliance Review Board shall be kept on file at the office of the Charlotte Planning, Design and Development Department, at the City Clerk's office, and posted on the Department website.
- ~~(4) Alternative Compliance Review Board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.~~

### **Section 3.606: Staff.**

- (3) Staff shall comply with the Conflict of Interest standards in Section 1.111.

## **Chapter 4 DEVELOPMENT APPROVAL**

### **Section 4.102. Building permit required.**

- (2) Applications for a building permit may be made by the property owner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the property owner. An easement holder may also apply for a building permit for such development that is authorized by the easement.
- ~~(3) Building permits shall be issued in writing and provided in print or electronic form. If an electronic form is used, it must be protected from further editing.~~



(4) Building permits attach to and run with the land.

(~~2~~ 5) The Director of Land Use and Environmental Services Agency (LUESA), or his or her authorized designee, will not issue a building permit unless the plans, specifications, and intended use of the structure conform to the requirements of these regulations. The application for a building permit must be accompanied by information sufficient to allow the Director of LUESA to act on the request and be filed in the office of Director of Land Use and Environmental Services Agency (LUESA), accompanied by a fee established by the City Council.

*(Petition No. 2006-116 §4.102(2), 01/16/07)*

(6) The Director of Land Use and Environmental Services Agency (LUESA), or his or her authorized designee shall inspect work undertaken through a building permit, to assure that the work is being done in compliance with the permit. Inspectors are authorized to enter any premises within the jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

#### **Section 4.103. Certificates of Compliance/Certificates of Ooccupancy required.**

(1) It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of compliance/occupancy.

*(Petition No. 2006-116 §4.103(1), 01/16/07)*

## **CHAPTER 5 APPEALS AND VARIANCES**

### **Section 5.101. Authority of City of Charlotte**

(1A) The Board of Adjustment shall have the authority to hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the City of Charlotte Historic District Commission in the nature of certiorari within the times prescribed for appeals of administrative decisions pursuant to G.S. 160D-405(d).

- (5) Pursuant to G.S. §~~160A-388~~, 160D-406 the Board of Adjustment only has the statutory authority to grant or to deny variances and to determine if the zoning administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Board of Adjustment does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

*(Petition No. 2014-087 §5.101(5), 10/20/2014)*

- (6) Variance approvals attach to and run with the land.

### **Section 5.103. Filing of notice of appeal.**

- (1) A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party ~~a person aggrieved with the decision of the Zoning Administrator, or of his or her authorized designee,~~ within thirty (30) days of the decision receipt of the written determination by the Zoning Administrator or of his or her authorized designee. ~~Any other person with standing to appeal has thirty (30) days from receipt from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the U.S. Postal Service. Pursuant to N.C.G.S. §160A-388(d), when passing upon appeals, the Board shall have jurisdiction to grant variances for any violations but shall have that jurisdiction for variances only at that time.~~ If an applicant fails to request variances at that time, then the applicant shall forfeit the right to seek variances for the stated violations. ~~The Board shall not have jurisdiction to grant variances.~~ The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by City Council. Failure to timely and properly file such notice and the fee shall constitute a waiver of any rights to appeal under this chapter and the Board of Adjustment shall have no jurisdiction to hear the appeal.

*(Petition No. 2006-116 §5.103(1), 01/16/07)*

- (2) ~~Upon the filing of such notice,~~ The Zoning Administrator shall ~~forthwith~~ transmit to the Board of Adjustment all administrative papers, records, and other information regarding the subject matter of the appeal. The

administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. Administrative materials may be provided in written or electronic form.

- (3) An appeal stays all proceedings and enforcement actions, including fines in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from which the appeal is taken and on due cause shown.

#### **Section 5.107. Notice and hearing.**

The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, hold follow statutory procedures for evidentiary hearings and quasi-judicial hearings decisions required by G.S. 160D-406, on any appeal or variance petition, which comes before it.

As per G.S. § 160A-388(a2); 160D-406 notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

Staff shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form.

Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the

hearing.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.

If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to section 5.113(1), then the aggrieved party, as stated in G.S. Sec. ~~160A-388(e)~~, 160D-1402(c) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective.

The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

#### **Section 5.110. Action by the Board of Adjustment.**

- (3) The board shall vote in accordance with state law. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (4) Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board.
- (5) The decision of the Board of Adjustment shall be delivered by personal

delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

- (36) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to [section 5.113\(1\)](#), then the aggrieved party, as stated in G.S. Sec. ~~160A-388(e)~~, [160D-1402\(c\)](#) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective. (*Petition No. 2014-087 §5.110(1-3), 10/20/2014*)

### **Section 5.113. Appeal from Board of Adjustment.**

(*Petition No. 2005-78 §5.104(1)(3)(4), 06/20/05*) (*Petition No. 2014-087 §5.113(1-3), 10/20/2014*)

- ~~(1) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.~~
- (2-1) Every quasi-judicial decision of the Board shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. § ~~160A-393~~ [160D-1402](#). Any petition for a review of the Board's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court by the later of (1) 30 days after the decision is effective, or (2) 30 days after a written copy of the decision is given in accordance with subsection (1) of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.
- (3 2) If a petition for review pursuant to G.S. § ~~160A-388(e2)~~ [160D-406\(k\)](#) is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Zoning Board of Adjustment for preparation of the filing of the record in superior

court. If a court ultimately renders a decision in favor of the petitioner, then the City shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the City shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of debt owed.

*(Petition No. 2014-087 §5.113(1-3), 10/20/2014)*

## **CHAPTER 6 AMENDMENTS**

### **PART 1 PROVISIONS OF GENERAL APPLICABILITY**

#### **Section 6.105. Filing of petitions.**

- (2) Except for a city-initiated zoning map amendment, ~~when a rezoning application is not filed by the owner of the subject parcel of land~~ no zoning map amendment that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down- zoning amendment.
- ~~(2-3)~~ No application for reclassification of property will be accepted until it is complete. A decision by the Planning Director or his or her designee that an application is incomplete may be appealed to the Planning Commission. A decision by the Planning Commission that an application is incomplete may be appealed to the City Council.

#### **Section 6.108. Withdrawal and amendment of petition.**

- (1) The petitioner may withdraw a petition filed under [Section 6.105](#) at any time prior to the day of the first publication of the public hearing notice as required under G.S. Section ~~160A-364~~ 160D-601(a). After that time, the petitioner may file a request to withdraw the petition with the Planning Director. The City Council shall decide, on the date scheduled for the hearing, whether to allow the withdrawal.
- (Petition No. 2003-101 §6.108(1), 11/17/03)*

#### **Section 6.109. Notice of hearing.**

- (1) Notice of all public hearings required under this Chapter shall be in accordance with the North Carolina General Statutes ~~160D-602~~ and rules

and procedures adopted by the City Council.

**Section 6.110. Hearing.**

- (2) The hearing shall be conducted in accordance with North Carolina General Statute 160D-601 and rules and procedures adopted by City Council.
- (3) No proposed amendment shall be approved until the Planning Commission has made its written recommendations, or 30 days after the public hearing, whichever shall first occur. If the Planning Commission does not make a recommendation within 30 days after the petition has been referred to it, then the Planning Commission shall be considered to have made a favorable recommendation, unless action was taken to defer.

In making its written recommendation, the Planning Commission shall ~~also~~ advise and comment on whether the ~~zoning petition proposed action~~ is consistent with ~~the purposes, goals, and objectives and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property.~~ any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

**Section 6.111. Action by City Council.**

- (6) ~~In approving a rezoning petition, the City Council shall adopt a statement describing whether its action is consistent with the purposes, goals, objectives, and policies of the adopted "Generalized Land Plan" and any amendment to that plan through an adopted district or area plan covering the subject property, and provide an explanation why the action taken is reasonable and in the public interest. This statement shall not be subject to judicial review. (Petition No. 2006-16 §6.111(5), 03/20/06)~~ If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly



initiated as provided in G.S. 160D-601, to the City Clerk at least two business days prior to the proposed vote on such change, the City Clerk shall deliver such written statement to the City Council.

- (7) When adopting or rejecting any zoning text or map amendment, the City Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the City Council was aware of and considered the Planning Commission's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review.

If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the City Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- (8) The City Council shall also adopt a statement of reasonableness for a zoning map amendment. This statement of reasonableness may consider, among other factors, 1) the size, physical conditions, and other attributes of the area proposed to be rezoned, 2) the benefits and detriments to the landowners, the neighbors, and the surrounding community, 3) the relationship between the current actual and permissible development on a tract and adjoining areas and the development that would be permissible under the proposed amendment, 4) why the action taken is in the public interest, and 5) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning", the statement on reasonableness may address the overall rezoning.

The statement of plan consistency and the statement of reasonableness required may be approved as a single statement.



### **Section 6.113. Protest petitions.**

*(Petition No. 2009-15 §6.113(1, 2, 3) 04/20/09)*

- ~~(1) In the event that the City Council receives a petition protesting any reclassification of property, and signed by the owners of either 20 percent or more, of the area included in the proposed change, or 5% or more of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned, the amendment shall become effective only upon an affirmative vote of three fourths (3/4) of the members of the City Council, including the Mayor, who are not excused from voting. For the purposes of this subsection, vacant positions on the Council and members who are excused from voting shall not be considered “members of the Council” for calculation of the requisite supermajority.~~

~~Street right-of ways shall not be considered in computing the 100-foot buffer area as long as that street right-of way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. The protest petition shall be on the form prescribed by the City or on a document containing all of the information on the City’s form. All protest petitions shall include the following information to be considered complete:~~

- ~~• Name, address, daytime phone number of the person filing the protest petition with the City Clerk.~~
- ~~• Rezoning petition number.~~
- ~~• Statement of the reason for the protest petition.~~
- ~~• Legible printed name of property owner(s).~~
- ~~• Tax parcel identification number of the property included in the protest petition.~~
- ~~• Address of the property included in the protest petition.~~
- ~~• Daytime phone number of property owner(s) or authorized agent signing the protest petition.~~
- ~~• Signature of legal property owner(s) or authorized agent (indicate representative capacity) of the property included in the protest petition.~~
- ~~• Number of pages submitted.~~
- ~~• Clerk’s certification.~~

- ~~(2) No protest against any change or amendment to a zoning ordinance or zoning map shall be valid or effective for the purposes of G.S. § 160A-385, unless it 1) meets the requirements of subsection (1) of this section, and 2) has been received by the City Clerk in sufficient time to allow the City at least two normal work days, excluding Saturdays, Sundays and City of Charlotte legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. (For example, a petition must be filed by 5:00 p.m. on Wednesday for a hearing taking place the following Monday.)~~
- ~~(3-1) For existing protest petitions on rezoning map amendments without a decision by Council, Any~~ property owner may withdraw their protest at any time prior to the Council's vote on the rezoning petition. Such a withdrawal deletes the subject properties from the computation. ~~pursuant to G.S. § 160A-385.~~ In order to effectively withdraw signatures, the withdrawals must be in writing, identify the rezoning petition protested against, state that the submitted signatures have the purpose of deleting the signers from the protest petition, and be submitted to the City Clerk. Only those protest petitions that meet the qualifying standards ~~set forth in G.S. 160A-385~~ at the time of the vote on the rezoning petition shall trigger the supermajority voting requirement. A withdrawn protest may not be reinstated. ~~after the deadline for filing protests set forth in subsection (2).~~ *(Petition No. 2006-16 §6.113(3), 03/20/06)*

## **PART 2 CONDITIONAL ZONING DISTRICT**

### **Section 6.201. Purpose**

- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured Housing ~~District Development~~, Commercial Center District, Neighborhood Services District, Hazardous Waste District, and Research 3 District.

### **Section 6.204. Approval of conditional zoning district.**

The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the

rezoning at the public hearing and no valid protest petition ~~under G.S. 160A-386~~ was filed. ~~If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.~~

#### **Section 6.205. Conditions to approval of petition.**

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition, but only those conditions consented to by the petitioner, in writing, may be incorporated into the conditional site-specific plan. Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to city ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the City, County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the City Council. Only those conditions mutually consented to by the petitioner, in writing, and approved by the Council, by ordinance, and the petitioner may shall be incorporated into the petition.  
(Petition No. 2006-16 §6.205, 03/20/06)

#### **Section 6.206. Effect of approval.**

Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to N.C.G.S. Section ~~160A-385.1~~ 160D-108 for the period of time established pursuant to Section 1.110 of this Zoning Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section ~~160A-385.1(e).~~ 160D-108.1(c). Vested rights shall remain effective beyond the end of the period of time established

pursuant to [Section 1.110](#) of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment, unless the approved site plan explicitly provides that an adult establishment is a permitted use or the site meets the standards of Section 12.518.

**Section 6.207. Alterations to approval.**

*(Petition No. 2007-27, § 6.207, 04/16/07)*

- (2) Administrative minor amendment process.

An administrative minor amendment is defined as an amendment that does not significantly alter the site plan or its conditions and the change does not have a significant impact upon abutting properties.

- a. Application for an administrative minor amendment. Any request for an administrative minor amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review.
- b. Authority to approve an administrative minor amendment. The Planning Director or designee shall have the delegated authority to approve an administrative minor amendment change to an approved site plan. ~~The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and the change does not have a significant impact upon abutting properties.~~

~~Any changes that increase the intensity or density of the development or involve a change of use are considered to be significant changes that can not be considered through an administrative minor amendment. limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less.~~

Other Significant changes to an approved site plan that can not be

considered through an administrative minor amendment include the following:

- (a) Increasing the number of buildings
- ~~(b) Increasing the number of dwelling units more than five (5) units or 10% of the total approved, whichever is less.~~
- ~~(e b)~~ Adding driveways to thoroughfares
- ~~(d c)~~ Reducing parking spaces below the minimum standards
- ~~(e d)~~ Reducing buffers or yards
- ~~(f e)~~ Moving structures closer to adjacent properties in a residential district or when abutting a residential use.
- ~~(g f)~~ Reducing open space
- ~~(h g)~~ Changing owner occupied units to rental if noted on the site plan
- ~~(i h)~~ Increasing the mass of buildings.

Significant changes are considered major modifications and shall follow the standard legislative approval process for legislative hearings.

The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and City Council consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.

- (c) Staff decision, notifications, appeal process.
  - (i) Approval where there was a valid protest petition in effect on the original rezoning petition. If an administrative amendment is approved, and a valid protest petition was filed against the original petition on or after January 1, 2006 (even if it was withdrawn), then the Planning Director or designee shall:
    - 3. Post a sign on the subject property, indicating that the staff has granted an administrative amendment.

Adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within ~~24~~ 30 days from the date of the written notification. If notification is sent by first-class mail, an additional three days shall be added to the time period. The Zoning Committee of the Planning Commission shall hear the appeal through a quasi-judicial process.

- (ii) Approval without valid protest petition in effect on the date of the original rezoning decision. If an administrative amendment is approved, adjacent property owners within 100' (exclusive of rights-of-way) have the right to file an appeal with the Planning Director or designee within ~~24~~ 30 days of the date the decision was filed, although no notification to adjacent property owners is required.
- (iii) Denial. If an administrative amendment is denied, then the Planning Director or designee shall send written notification of the denial to the applicant. The applicant shall have ~~24~~ 30 days from the date of the written notification to file an appeal of the decision with the Planning Director or designee. If the written notification is sent by first-class mail, then three days shall be added to the time period.

#### **Section 6.209. Protest Petitions**

New protest petitions are no longer allowed per the North Carolina General Statutes.

Existing protest petitions remain in effect for zoning map amendments still pending approval by City Council.

### **CHAPTER 7 NONCONFORMITIES**

#### **Section 7.103. Nonconforming structures.**

- (8) An existing ~~mobile home or~~ manufactured home located in a nonconforming mobile home or manufactured housing park in operation at the time of adoption of these regulations may be replaced with another ~~mobile home or~~ manufactured home provided the number of ~~mobile home~~

~~or~~ manufactured home units may not be increased beyond the number available before replacement and the replacing ~~mobile~~ manufactured home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances.

## **CHAPTER 8 ENFORCEMENT**

### **Section 8.102. Enforcement procedures**

*(Petition No. 2005-78 §8.102, 06/20/05)*

If an inspection by the professional staff identified in Part 5 of Chapter 3 reveals a violation of these regulations, the Zoning Administrator, individually, or by and through his or her authorized designees, shall issue a written notice of violation notifying the violator (holder of the development approval) and the owner of the property involved, if the property owner is not the violator, by personal delivery, electronic delivery, or first-class mail and may be provided to the occupant of the property or the person undertaking the work or activity, or may be posted on the property. The notice shall ~~and~~ give the violator a specified time to correct the violation. The person providing the notice of violation shall certify to the City that the notice was provided.

A notice of violation may be appealed to the board of adjustment.

### **Section 8.107. Other remedies.**

*(Petition No. 2006-116 §8.107(1,2,3 & 4), 01/16/07)*

- (3) Written notice of the suspension or revocation of a building permit or a certificate of occupancy pursuant to [Section 8.107\(2\)](#) shall be given in accordance with the provisions for issuance of citations set out in Section 8.105, and by notifying the holder of the building permit or certificate of occupancy in writing stating the reason for the revocation or suspension. The same development review and approval process required for issuance of the approval shall be followed.

## **CHAPTER 9 GENERAL DISTRICTS**

### **PART 1 TABLES OF USES AND HIERARCHY OF DISTRICTS**

#### **Section 9.104 Bona Fide Farms.**

Bona fide farms located in the extra-territorial jurisdiction (ETJ) are exempt from city zoning regulations, to the same extent bona fide farming activities are exempt from



county zoning pursuant to 160D-903.

## **PART 4 URBAN RESIDENTIAL DISTRICTS**

### **Section 9.407. Urban Residential Districts; development standards for various uses.**

- (1) Density bonus provisions.
  - (c) Bonus permitted.
    - (v) For the preservation of a structure and/or land which has been designated as a historic property pursuant to G.S. ~~160A-399~~ 160D-944 and 160D-945 and for which a certificate of appropriateness has been secured, or for the preservation of a property listed in the National Register of Historic Places preserved in accordance with the Secretary of the Interior's standards for historic preservation projects, a floor area bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units shall be granted. For the preservation of only a building facade or a group or series of facades of a structure or structures which have been designated as a historic property as listed above, a floor area bonus of 2 percent of the base floor area ratio but not less than 2 dwelling units, is granted.

## **PART 8 BUSINESS DISTRICTS**

### **Section 9.805. Development standards for business districts.**

- (7) Special Development Requirements for the BP district. Additional development requirements for the BP district are specified below:
  - (b) Utility lines underground. All utility lines such as electric, telephone, CATV, or other similar lines must be installed underground, unless the following criteria are met:
    - (i) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.



- (ii) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

## **PART 9 UPTOWN MIXED USE DISTRICT**

### **Section 9.906. Uptown Mixed Use District; urban design and development standards.**

#### **(8) Utility Lines**

All utility lines along all project street frontages must be placed underground in projects over 100,000 square feet as part of the streetscape improvements, or if the following criteria are met:

- a. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

## **PART 10 URBAN INDUSTRIAL DISTRICT**

### **Section 9.1006. Urban Industrial District; development standards.**

- (5) All development in the UI districts must conform to any adopted streetscape plan for the streets, which the project abuts. Improvements relating to sidewalk tree planting and landscaping as specified by the streetscape plan must be installed during the development process. Setbacks prescribed in the streetscape plan supersede those listed as minimums for the district when the plan specifies a greater setback than the minimum for the district. Developers are strongly encouraged to work with the appropriate utility companies to relocate overhead utilities underground during the development of the site, unless the following criteria are met:

- a. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated

during construction of the subdivision or development plan.

- b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

~~If the utilities are not relocated at the time the site is developed the design of the site must provide for the eventual placement of utilities underground, and appropriate easements must be set aside accordingly.~~

**Section 9.1007. Urban Industrial District; off-street parking.**

- (~~3~~ 2) Parking spaces intended for use by small or compact vehicles may comprise 25

percent of the total parking spaces required. Such parking spaces may not be less than 7½ feet in width and 14 feet in length.

- (~~4~~3) Bicycle parking. The bicycle parking standards of [Section 12.202](#) and [Section 12.202A](#) are applicable in this district  
(Petition No. 2005-013, §9.1007(3), 3/21/05)

**CHAPTER 10 OVERLAY DISTRICTS**

**PART 2 HISTORIC DISTRICTS**

**Section 10.203. Certificate of Appropriateness required.**

- (2) If a certificate shall be required, then the Historic District Commission staff will provide the applicant with an application form, instructions, and such technical advice as may be deemed necessary. The Historic District Commission shall prepare and adopt principles and ~~guidelines~~ standards, not inconsistent with Chapter ~~160A, Part 3C~~ 160D, Part 4 "Historic ~~Districts~~ Preservation", of the General Statutes, for new construction, alterations, additions, moving and demolition. A copy of the adopted principles and ~~guidelines~~ standards shall be kept at the Historic District Commission's Office and City Clerk's Office.
- (3) Work may not begin until a certificate has been issued. A certificate must be issued by the Historic District Commission through an evidentiary hearing

prior to the issuance of a building permit or other permit granted, for the purposes of constructing, altering, moving, or demolishing structures, which a certificate may be issued subject to reasonable conditions necessary to carry out the purposes of N. C. General Statutes, Chapter ~~160A, Article 19, Part 3~~ 160D, Article 9, Part 4. A certificate of appropriateness shall be required whether or not a building permit is required.

#### **Section 10.208. Procedure.**

- (2) All properly filed applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time. ~~In cases where the Historic District Commission deems it necessary, it may hold a public hearing concerning the application.~~

#### **Section 10.209. Notice, hearing and decision.**

~~The Historic District Commission shall follow statutory procedures for evidentiary hearings and quasi-judicial decisions in G.S. 160D-406 when approving, approving with conditions, or denying a certificate of appropriateness application. The Historic District Commission shall take such steps as may be reasonably required under the particular circumstances as stated in the "Rules of Procedure" to inform the abutting property owners and any other owners of any property likely to be materially affected by the application,~~ prior to the issuance or denial of a certificate of appropriateness.

#### **Section 10.210. Standards.**

- (1) In considering an application for a certificate of appropriateness, the Historic District Commission shall first determine that the project is compatible with the district as a whole in terms of size, scale, and massing, as well as maintaining a pedestrian scale and orientation. Further, the Historic District Commission shall apply the Secretary of Interior's Standards for Rehabilitation (See 36 Code of Federal Regulations Section 67.7. Hereinafter: "Secretary's Standards") stated in Sub-section (2) and the principles and ~~guidelines~~ standards, referred to in Section 10.203(2), and adopted by the Historic District Commission. Although the Historic District Commission will use the "Secretary's Standards" as its standards,

approval of a certificate of appropriateness by the Historic District Commission should not be interpreted as approval for any other process such as the Investment Tax Credits.

**Section 10.213. Appeal to Zoning Board of Adjustment.**

- (2) Any appeal must be filed with the Board of Adjustment within thirty days from ~~the date of receipt of the written notice of~~ the issuance or denial of the certificate. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County.

**Section 10.216. Revocation of building permit.**

Pursuant to N. C. General Statutes Section ~~160A-422~~ 160D-1115, "Revocation of building permits", the Land Use and Environmental Services Agency shall be notified to revoke any building permits for any substantial departure from the approved application, plans, or specifications, for refusal or failure to comply with the requirements of a certificate of appropriateness. If a certificate of appropriateness is required, then a building permit shall not be issued. If a building permit has been mistakenly issued or issued based upon false statements or misrepresentations made in securing the building permits, then the building permit may be revoked by the Land Use and Environmental Services Agency, or as directed by the City.

*(Petition No. 2005-78 §10.216, 06/20/05)*

**PART 5 MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

**Section 10.509. High Density Option.**

**3. Installation of Structural BMP's**

*(Petition No. 2011-019 § 10.509(3), 04/25/11)*

- B. Property Other Than SUBDIVISIONS – Civil Penalties  
Any person who fails to install or maintain the required structural BMP in accordance with this chapter shall be subject to a civil penalty of not more than \$500. No penalties shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means which are reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil

penalty or other enforcement action. Each day that the violation continues shall constitute a separate violation. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

#### **Section 10.510. Appeals and Variances.**

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon §5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~160D-406(k).
- C. 2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).
- 3. b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~160D-406(k).

### **PART 6 CATAWBA RIVER/LAKE WYLIE WATERSHED OVERLAY**

#### **Section 10.609. High Density Option.**

##### **3. Installation of Structural BMP's**

*(Petition No. 2011-019 § 10.609(3) 04/25/11)*

##### **B. Property Other Than SUBDIVISIONS - Civil Penalties**

Any person who fails to install or maintain the required structural BMP in accordance with this chapter, shall be subject to a civil penalty of not more than \$500. No penalties shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means which are reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. Each day that the violation continues shall constitute a separate

violation. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

**Section 10.610. Appeals and Variances.**

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).
- C. 2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).
- 3. b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).

**PART 7 LOWER LAKE WYLIE WATERSHED OVERLAY**

**Section 10.711. Appeals and Variances.**

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).
- C. 2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and G.S. § ~~160A-388(e).~~ 160D-406(k).
- 3. b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be

pursuant to Chapter 5 and G.S. § ~~160A-388(e)~~160D-406(k).

## **CHAPTER 12 DEVELOPMENTAL STANDARDS OF GENERAL APPLICABILITY**

### **PART 1 SUPPLEMENTAL DEVELOPMENT STANDARDS**

#### **Section 12.103. Requirements for lots along thoroughfares.**

- (4) An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to the particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:
  - (a) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement;
  - (b) The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
  - (c) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. The Board of Adjustment's decision shall be subject to review by the superior court by proceedings in the nature of certiorari all in accordance with G.S. Sec. ~~160A-388(e)~~. 160D-1402 and 160D-406(k).

### **PART 5 SPECIAL REQUIREMENT FOR CERTAIN USES**

#### **Section 12.509. Public utility transmission and distribution lines.**

- (1) All electricity, telephone, CATV, and other utility distribution lines, which deliver service to the end user from a transmission line providing service to an area larger than the individual parcel or project area in developing or redeveloping areas, shall be installed underground in all districts, except



the Research, Institutional and BP districts, unless terrain, subsurface or surface obstructions inhibit installation. ~~This provision does not apply to the Research, Institutional and BP districts., or if the following criteria are met:~~

- ~~(a) The power liens existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.~~
- ~~(b) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.~~

## **PART 6 STORMWATAR DRAINAGE**

### **Section 12.603. Standards for plan approval.**

The following standards shall be met for approval of a storm water drainage plan:

- (1) The City Engineer shall review the drainage plan for compliance with the standards contained in the current edition of the Charlotte-Land Development Standards Manual, the Charlotte-Mecklenburg Storm Water Design Manual, which is to be adopted in its entirety ~~pursuant to G.S. 160a-76~~, and all other relevant and appropriate standards established by the Engineering Department.

## **CHAPTER 13 SIGNS**

### **13.4 Sign Permit**

#### **B. Approval Procedure**

- 1. Upon the filing of an application for a sign permit made by the property owner, a lessee or person holding an option or contract to purchase or lease the property, or an authorized agent of the property owner, the Zoning Administrator or their designee shall examine the plans and specifications within 15 business days. If deemed necessary, they may inspect the premises where the sign will be installed.



2. If an application for a proposed sign permit is complete and complies with all the requirements of these regulations and other applicable codes, including but not limited to Historic District Commission Design Guidelines, the Zoning Administrator or their designee a permit shall be issued issue a sign permit in writing to the applicant. The sign permit shall be issued in print or electronic form. Any permit issued exclusively in electronic form shall be protected from further editing once issued. The permit shall be delivered by personal delivery, electronic mail, or by first-class mail, to the applicant and the property owner, if different from the applicant. The permit shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, a written notice of the sign permit shall be delivered to the last address listed for the property owner on the county tax abstract.

If the sign permit is denied, the Zoning Administrator or designee shall deliver a written notice of the decision to the applicant at the address on the application, and to the property owner, if different from the applicant. The written notice shall be provided by personal delivery, electronic mail, or first-class mail, and shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, the notice shall be delivered to the last address listed for the property owner on the county tax abstract.

An appeal of the decision shall be made to the Zoning Board of Adjustment and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

### **13.10 Signs Requiring Permits**

#### **L. Sign Permit Procedures**

All sign permit decisions shall be accordance with the procedures of Section 13.4.B.

### **13.11 Outdoor Advertising Signs**

#### **E. Outdoor Advertising Sign Permit Procedures**

All outdoor advertising sign permit decisions shall be in accordance with the procedures of Section 13.4.B.

### **13.12 Special Sign Regulations**

All special sign permit decisions shall be in accordance with the procedures of Section 13.4.B.

5. In approving or disapproving the Planned Development Flexibility Option, the Planning Design, & Development Director shall deliver written notice of the decision, in print or electronic form to the applicant and property owner, if different from the applicant by personal delivery, electronic mail, or by first-class mail. If the request is not approved, the reasons shall be stated in the notice of the decision. Any notice of decision issued exclusively in electronic form shall be protected from further editing once issued.

The notice shall be delivered to the applicant at the address provided in the application, and to the property owner, if different from the applicant, at the last address listed for the owner of the property on the county tax abstract.

An appeal of the decision to the Board of Adjustment shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

### **4. Approval and New Sign Permit Required**

- b. In approving or disapproving the application for relocation, conversion or modification of the detached sign, the Planning Director or designee shall deliver written notice of the decision, in print or electronic form to the applicant and property owner, if different from the applicant by personal delivery, electronic mail, or by first-class mail.

An appeal of the decision to the Zoning Board of Adjustment shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

- c. If the application is approved a new sign permit is required for each sign.

## **D. Landmark and Historic Signs**

### **1. Designation Procedure**

- a. In approving or disapproving a landmark or historic sign application, the Zoning Administrator or their designee shall ~~state the reasons in writing~~ deliver written notice of the decision, in print or electronic form to the property owner by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the address of the property owner on the application.

An appeal of the decision to the Zoning Board of Adjustment shall be properly filed within 30 days ~~of the date of the decision as shown on the face of the decision.~~ from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

## **13.15 Sign Enforcement**

### **B. Notices of Violations and Citations**

If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Zoning Administrator or their designee shall issue to the violator/permit holder either (1) a written Warning Citation for violations associated with, but not limited to, temporary type signs such as portable signs, banners, and feather flags or (2) a written Notice of Violation for violations associated with permanent type signs.

For violations, a written notice of violation shall be sent to the violator/permit holder and to the property owner, if the property owner is not the holder of the permit. Notices of violation shall be provided by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The Notice of Violation may be posted on the property. The person providing the notice of violation shall certify to the City that the notice was provided. A notice of violation may be appealed to the board of adjustment within 30 days of receipt. If the notice of violation is delivered by first-class mail, the notice shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

## CHAPTER 15 TRANSIT ORIENTED DEVELOPMENT DISTRICTS

### 15.8.4 Uses

#### 9. Utility

- c. **Utility Transmission and Distribution Lines.** For new construction, service from utility distribution lines serving the site, which deliver service to the end user from a transmission line providing service to an area larger than the individual site, shall be installed underground unless terrain, subsurface, or surface obstructions inhibit installation., or if the following criteria are met:
  - i. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
  - ii. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.



## Petition 2021-110 by Charlotte Planning, Design & Development

### To Approve:

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation;
- The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures; and
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.

Therefore, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The text amendment adds new conflict of interest standards for boards and administrative staff; and
- The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.

### To Deny:

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation;
- The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures;
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner; The text amendment adds new conflict of interest standards for boards and administrative staff; and
- The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**



**Agenda Date:** 6/1/2021

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**Agenda #:** 2. **File #:** 15-15832 **Type:** Zoning Item

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## **Rezoning Petition: 2021-109 by Charlotte Planning, Design, & Development**

This Text Amendment proposes to update the Subdivision Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with new Chapter 160D legislation; 2) adds conflict of interest standards for boards, commissions, and administrative staff; 3) adds a requirement for written notices of decisions on preliminary plans and final plats, to be provided to the applicant and the property owner, if different; 4) modifies the performance guarantee regulations; 5) adds requirements for inspectors to present proper credentials prior to inspections, and that proper consent must be given to inspect areas not open to the public or an appropriate inspection warrant must be secured; 6) adds and modifies definitions, and 7) adds text that notifications of decisions sent by first-class mail are deemed received on the third business day for the purposes of filing an appeal.

**Public Hearing Held:** May 17, 2021 - Item #23

**Staff Resource:** [Sandra Montgomery](#)

### **Staff Recommendation:**

Staff recommends APPROVAL of this petition.

### **Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

<b>REQUEST</b>	Text amendment to The Charlotte Subdivision Ordinance, Sections 20-2, 20-6, 20-7A, 20-9, 20-10, 20-17, 20-20, 20-24, 20-58, 20-59, 20-86, 20-87, 20-88, 20-93, 20-94, 20-97, and Table of Contents.
<b>SUMMARY OF PETITION</b>	The text amendment proposes to update the Charlotte Subdivision Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use.
<b>PETITIONER AGENT/REPRESENTATIVE</b>	Charlotte Planning, Design & Development Charlotte Planning, Design & Development
<b>COMMUNITY MEETING</b>	Meeting is not required.

<b>STAFF RECOMMENDATION</b>	<p>Staff recommends approval of this petition.</p> <p><u>Plan Consistency</u> The text amendment is <b>consistent</b> with the 2019 and 2020 North Carolina General Statutes Chapter 160D.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• The text amendment updates the Subdivision Ordinance to align with new N.C.G.S. Chapter 160D legislation;</li> <li>• The text amendment updates the processes for approvals and decisions, including written notices of decisions to both the applicant and the property owner;</li> <li>• The text amendment adds new conflict of interest standards for boards and administrative staff; and</li> <li>• Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.</li> </ul>
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#### **PLANNING STAFF REVIEW**

- **Background**
  - In 2019 and 2020, the North Carolina General Assembly adopted new land use legislation consolidating previous city enabling statutes (Article 19 of Chapter 160A) and county enabling statutes (Article 18 of Chapter 153A) and into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.
  - The Charlotte Subdivision Ordinance must be updated to align with N.C.G.S Chapter 160D, and take effect no later than July 1, 2021.
  - This text amendment updates the Charlotte Subdivision Ordinance to align zoning regulations and processes related to land use to meet this deadline.
- **Proposed Request Details**

The text amendment contains the following provisions:

General

  - Updates North Carolina General Statute references to align with the new N.C.G.S Chapter 160D references.

Section 20-6

  - Adds new definitions for "performance guarantee" "minor-limited subdivision", per legislation.
  - Modifies the definition for "subdivision".

Section 20-7A (new)

- Adds new conflict of interest standards for boards and commissions, and administrative staff.

Section 20-9

- Adds a requirement that Planning Commission members shall take an oath of office before starting their duties.

Section 20-10

- Adds a requirement that Zoning Board of Adjustment members shall take an oath of office before starting their duties.

Section 20-17

- Requires all development approvals and decisions for preliminary subdivision plans and final subdivision plats to be written and provided to the applicant and property owner, if different. Disapproval decisions shall include the reasons for the disapproval.
- Adds a new requirement for appeals of decisions that are sent by first-class mail to be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.

Section 20-20

- Requires development approvals and decisions for planned development preliminary plans and final plats to be written and provided to the applicant and property owner, if different. This includes disapproval decisions with the reasons provided for the disapproval.

Section 20-24

- Requires the Development Review Board to deliver written notices of decisions to the applicant and property owner, if different. Disapproval decisions shall include the reasons for the disapproval.
- Adds a new requirement that appeals of decisions that are sent by first-class mail to be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.

Section 20-58

- Modifies the Section title to read, "Modification of requirements; performance guarantees".
- Adds details requiring performance guarantees not to exceed 125% of the reasonably estimated cost of completion.
- Requires performance guarantees to initially be for one year, unless the scope of work necessitates a longer period.
- Modifies the options a developer has to allow the posting of one performance guarantee in lieu of multiple bonds, letters of credit, or other equivalent security.
- Requires staff to provide written acknowledgement to the developer when the improvements have been completed and authorize the release or return of the performance guarantees.

Section 20-59

- Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.

Section 20-87

- Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.

Section 20-88

- Adds a new requirement that appeals of decisions that are sent by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.
- Requires that civil penalties are stayed during the appeal process.

Section 20-93

- Requires appeals and variance recommendations from the planning director to the planning commission to be delivered to the appellant or petitioner, at the same time prior to the public hearing.

Section 20-94

- Requires appeals and variance materials to be transmitted to the planning commission and to the appellant or applicant and landowner, if not the appellant or applicant if materials are provided prior to the public hearing.
- Requires the official who made the administrative decision being appealed to be present at the evidentiary public hearing as a witness.

Section 20-97

- Updates how the 30-day time period for appeals of the planning commission's or hearing committee's decision by the superior court is counted to be from receipt of a written notice of the decision.



- **Public Plans and Policies**
  - The North Carolina General Statute legislation requires the Charlotte Subdivision Ordinance to become compliant with N.C.G.S Chapter 160D regulations by July 1, 2021.
- **TRANSPORTATION SUMMARY**
  - No comments submitted.

**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 Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** No comments submitted.
- **Charlotte Water:** No comments submitted.
- **City Arborist:** No comments submitted.
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments submitted.
- **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:** No outstanding issues.

See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)

**Planner:** Sandra Montgomery (704) 336-5722

**2021-109 TEXT AMENDMENT SUMMARY**  
**CHARLOTTE SUBDIVISION ORDINANCE**  
**05/02/21**

This document summarizes the changes proposed to the Charlotte Subdivision Ordinance through petition 2021-109. Only the sections being revised are shown in the summary. Text to be added is in red and underlined. Text to be deleted is in red and struck through. The full ordinance, with the changes shown in the ordinance, can be found on the webpage for [rezoning petition 2021-109](#) on the Charlotte Planning, Design & Development website.

**ARTICLE 1. IN GENERAL**

**Sec. 20-2. - Purpose.**

This chapter is adopted pursuant to the authority conferred by G.S. ~~160A-371~~ 160D-801 et seq., the Charter, and certain special legislation for the city and the county (ch. 203, Sess. Laws 1961) and for the purpose of promoting the orderly development of the city and county and for the purpose of coordinating streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare.

**Sec. 20-6. - Definitions.**

*(Definitions not listed remain unchanged)*

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Performance guarantee means any of the following forms of guarantee: a surety bond issued by any company authorized to do business in this State; a letter of credit issued by any financial institution licensed to do business in this State; or other form of guarantee that provides equivalent security to a surety bond or letter or credit.*

*Subdivision* will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including both residential and nonresidential multiple building site and multi-site projects even if there is no division of the underlying land into separate parcels which is to be recorded with the register of deeds and also includes all divisions of land involving the dedication of a new street or a new street right-of-way

or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this chapter:

- (1) The combination or recombination of portions of parcels created and recorded prior to January 1, 1988, or portions of lots platted in compliance with this ordinance after January 1, 1988, where the total number of parcels or lots is not increased and the resultant parcels are equal to the standards of the zoning ordinance.
- (2) The division of land into parcels greater than ~~five~~ ten acres where no street right-of-way dedication is involved.
- (3) The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
- (5) The division of land into plots or lots for use as a cemetery.
- (6) Creation of a separate lot or building site by a less than fee simple instrument, such as a ground lease, when the property interest created is divided from the original parcel for ten years or less, including options to renew.
- (7) The lease of space or other area within a building owned by the landlord.
- (8) Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
- (9) The division of a tract or parcel into separate tracts or parcels, or the creation of interests in lots or parcels, by means of:
  - a. A deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure), and
  - b. Releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
- (10) Proceedings to partition interests in lots or parcels pursuant to G.S. ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this chapter.
- (11) Divisions of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (12) Transfers of tracts or parcels by inheritance, to settle an estate, or bona fide gift.
- (13) Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this chapter as to the property acquired, either prior to the

commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever date first occurs.

Subdivision, minor-limited is the division of a tract or parcel of land in single ownership if all of the following criteria are met, which may require only a plat for recordation:

- (1) The tract or parcel of land to be divided is not exempted under the subdivision definition (2) in this chapter.
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all the following:
  - a. All lot dimension size requirements of the applicable land-use regulations, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot.

## **Sec. 20-7A. – Conflicts of Interest**

For the purposes of this ordinance, the following conflicts of interest standards shall apply:

- (1) Boards and Commissions. – Members of appointed boards and commissions (Charlotte-Mecklenburg Planning Commission, Design Review Board, and the Alternative Compliance Review Board) shall not vote on any advisory or quasi-judicial decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- (2) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

- (3) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (4) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (5) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

## **Sec. 20-9. - Planning commission.**

- (a) In addition to any authority granted to the Charlotte-Mecklenburg Planning Commission (hereinafter "planning commission) by other ordinances of the city or Mecklenburg County, and in accordance with the provisions of the interlocal agreement regarding the structure and responsibilities of the planning commission, the planning commission will have the following powers and duties to be carried out in accordance with these regulations.
  - (1) To hear appeals filed regarding the action of the planning staff in the approval or disapproval of any subdivision proposed under these regulations.
  - (2) To hear and decide requests for variances from the standards of this chapter in accordance with the provisions of article III. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide requests for variances.
  - (3) To hear and decide appeals from the interpretation of any provisions of this ordinance from the planning staff. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.
- (b) In all of these matters, the planning commission, or the hearing committee, may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this chapter.
- (c) Each commission member shall take an oath of office before starting their duties.

(Code 1985, § 20-11; Ord. No. 2960, § 2, 5-16-2005)

## **Sec. 20-10. – Development Review Board.**

*(Subsection listings not shown remain unchanged)*

- (a) A Development Review Board is hereby established to hear and decide requests for alternative compliance with the standards of this chapter. The board shall be composed of nine members and three alternates who shall be appointed according to the following disciplines (the determination that an appointee meets the relevant discipline shall be made by the appointing authority whose determination shall be conclusive):

Architect (City Council)

Civil Engineer (Mayor)

Landscape Architect

(Mayor)

Bicycle Advocate (Mayor)

Planning Commissioner (City Council)

Public Health Professional (City Council)

Real Estate Attorney (City Council)

Real Estate Development Industry Representative (City Council)

Transportation Planner or Urban Planner (City Council)

Architect – Alternate (Mayor)

Civil Engineer – Alternate (City Council)

Landscape Architect – Alternate (City Council)

- (b) The terms of office shall be for three (3) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.
- (c) Five voting members shall constitute a quorum. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (d) Members shall be subject to removal from the Board with or without cause by the appointing authority.
- (e) Each commission member shall take an oath of office before starting their duties.

### **Sec. 20-17. - Procedures for approval.**

- (a) Preliminary plan. A preliminary plan of the proposed subdivision, developed in accordance with the specifications set forth in section 20-16, must be submitted to the planning staff. The plan must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for approval of the

plans, on application forms to be furnished by the planning staff. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in section 20-16 that must be submitted with the application.

- (b) Time limits. Time limits for reviewing complete applications are as follows:

<b>Action</b>	<b>Staff Time</b>
Initial review of preliminary plan—red line drawings	30 days
Review of plans with corrections and/or changes	20 days
Approval of completed and correct plan	10 days

The time limits do not apply to plans for which no sketch plan has been prepared and submitted to the planning staff or to plans which contain any proposed school, park, greenway or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits in this subsection. Should the staff fail to respond within the time limits set out, the application will be considered to be denied, and the applicant may appeal the denial to the planning commission. ~~If the application is denied by the planning staff, the staff will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.~~

- (c) Waiver. The required preliminary plan may be waived by the planning staff for certain subdivisions, including metes and bounds subdivision. Such applications will

be designated "minor subdivisions," provided:

- (1) Such land abuts a street of required width and is so situated that no new streets are proposed, and no improvements are required to be installed by the subdivider according to this chapter.
  - (2) A plat of the tract being subdivided, accompanied by two applications signed by the owner/developer and/or his or her duly authorized agent, has been filed with the planning staff.
  - (3) The subdivider may be required to submit topographic information to determine flood elevations whenever the property proposed to be subdivided or resubdivided is traversed by or adjacent to a known watercourse. However, a final plat must be prepared and recorded as provided in section 20-18.
  - (4) The required preliminary plan may also be waived by the planning staff for limited subdivisions and/or those subdivisions which do not involve the dedication of a new street.
- (d) Final plats. Upon tentative approval of the preliminary subdivision plan by the planning staff, the subdivider may proceed to comply with the other requirements of this chapter and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any

existing or new street shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in section 20-58 prior to any final plat approval. The final subdivision plat must be developed in accordance with the specifications set forth in section 20-18. When the final plat is submitted to the planning staff for approval, it must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for final plat approval, on an application form to be supplied by the planning staff. The official plat for recording, together with a sufficient number of copies for distribution, must be presented for approval. The planning staff will approve final plats which comply with the requirements of this chapter within 30 days after complete submission.

(e) Decisions for preliminary subdivision plan and final subdivision plat.

(i.) In approving a preliminary subdivision plan or final subdivision plat, the planning staff shall deliver a written notice of the decision, in print or electronic form, by personal delivery, electronic mail, or by first-class mail to the applicant and property owner, if different from the applicant. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner.

(ii.) Disapproval. If the planning staff disapproves a preliminary plan or final plat of a subdivision, ~~the grounds~~ reasons for such disapproval will be stated in ~~writing~~ a written notice of the decision delivered to the applicant and property owner, if different from the applicant, by personal delivery, electronic mail, or by first-class mail. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner.

After such disapproval, an appeal from the decision~~s~~ of the planning staff may be taken to the planning commission, in accordance with article III of this chapter, and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is provided by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. The planning commission may approve, disapprove in whole or in part, or otherwise modify the action of the planning staff. A final plat of a subdivision approved by the planning commission upon appeal from the decision of the planning staff will be eligible for recording by the register of deeds of the county.

(f) Effect of approval of preliminary plan. A preliminary plan approved under this chapter will be valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year



period, the preliminary plan approval will become null and void, and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, that involves any utility installations or street improvements except grading, the plan will remain valid and in force, and the subdivision may be completed in accordance with the approved plan.

- (g) Release of grading permit. Preliminary plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. The release of the grading permit may be authorized by the planning staff prior to the approval of the preliminary plan, if the matters staying the approval are not related to nor will have an effect on the need for grading on the site. Once the preliminary plan is approved, further approvals under this subsection are not required for granting permits for individual sites within the development.

## **Sec. 20-20. - Planned developments.**

- (a) The requirements of this section will apply for the preparation, submission and approval of preliminary site plans for planned developments involving one-family attached dwellings and planned multifamily developments.
- (b) A pre-preliminary site plan conference will be arranged by the developer with designated members of the planning staff prior to the submission of a preliminary site plan for a planned development.
- (c) The developer must submit to the planning staff a preliminary site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of section 20-16 and must include the following additional information:
  - (1) The use, approximate height, bulk and location of all buildings and structures other than one-family detached and semidetached dwellings, except that one-family detached dwellings using a zero side yard shall be shown.
  - (2) All proposed land use and dwelling unit densities.
  - (3) For plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
  - (4) The proposed location, use, improvements, ownership and manner of maintenance of common open space areas.
  - (5) Proposed off-street parking and circulation plan showing the location and arrangement  
of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.
- (d) The planning staff action may be approval, requests for revisions, or denial of the preliminary site plan.

(1) In approving a preliminary site plan, or requesting revisions for a planned development, the planning staff shall deliver a written notice of the decision, in print or electronic form, to the developer and property owner, if different from the developer, by personal delivery, electronic mail, or by first-class mail. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the developer's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

(+2) If the planning staff disapproves a preliminary site plan for a planned development, the applicant will be notified of the ~~grounds~~ reasons for such disapproval in a written notice of decision delivered to the developer and property owner, if different from the developer, by personal delivery, electronic mail, or by first-class mail. The written notice shall be delivered to the developer's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

After such disapproval, an appeal from the decision of the staff may be taken to the planning commission and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. The planning commission may disapprove in whole or in part or otherwise modify the action of the planning staff.

- (+3) The final plat for planned developments, involving one-family attached dwellings and planned multifamily developments shall be prepared in accordance with the requirements of section 20-18 and shall contain the following additional information:
- a. The use, bulk, and location of all buildings and structures other than one family detached and semidetached dwellings.
  - b. All land uses.
  - c. The location, use, improvements, ownership and manner of maintenance of all common areas.

Written notice of the decision on a final plat for planned development shall be sent to the developer and to the property owner, if different from the developer. The written decision may be provided in print or electronic form and shall be delivered by personal delivery, electronic mail, or by first-class mail. Any approval issued exclusively in electronic form shall be protected from further editing once issued. If the final plat is not approved, the reasons shall be provided in the notice of decision. The notice shall be delivered to the developer at the address provided in the final plat application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

- (e) The planning staff will review the preliminary site plan to ensure conformance with the requirements of the zoning ordinance in appendix A to this Code and with this chapter. (Code 1985, § 20-20)

## **Sec. 20-24 Alternative Compliance for Street Design**

- (1) Purpose and Intent. It is the purpose of this section to provide for the consideration of alternative street designs which differ from the conventional design standards outlined in Sec. 20-22 and 20-23 of this article but which are based upon sound engineering, transportation, and urban design practice. Alternative street design means alternative designs for physical improvements such as street cross-sections, street network, and street block design.
- (2) Authority. The Development Review Board will have the authority to hear and decide applications for alternative compliance.
- (3) Initiation. An application for alternative compliance may be initiated only by the owner of the subject property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.
  - (a) An applicant requesting alternative compliance shall schedule a pre-application conference with staff to discuss the procedures, standards, and regulations.
  - (b) An application, in a form prescribed by the Planning Director, must be filed with the planning department accompanied by a nonrefundable filing fee as established by city council. The application shall include an explanation of why the development proposal is not allowed by the ordinance standards.
- (4) Determination of completeness.
  - (a) Within ten days of receiving an application for alternative compliance, the Planning Director will determine whether the application is complete. If the Planning Director determines that the application is not complete, he or she will notify the applicant or specifying the application's deficiencies. The planning director will take no further action on the application until the deficiencies are remedied. If the planning director fails to notify the applicant, the application will be deemed complete. If the application is deemed complete, the planning director will schedule the application for consideration at a hearing before the Development Review Board within 30 days.
  - (b) A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the application to proceed under this section. In the event that the application is automatically deemed complete due to the failure of the planning director to notify the applicant of any deficiencies in the application, the deficiency of information may result in rejection of the application by the Development Review Board.
- (5) Staff review.

- (a) After receipt of a complete application for alternative compliance, the planning director will review the application and send a written recommendation to the Development Review Board setting forth whether the application for alternative compliance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the application for alternative compliance. The recommendation of the planning director will be submitted to the Development Review Board and mailed to the applicant at least five days prior to the scheduled public hearing.
- (6) Notice and hearing.
  - (a) The Development Review Board will hold hearings on any application for alternative compliance which comes before it in accordance with rules adopted by it for such purpose.
  - (b) The planning staff will mail written notice of the time, place, and subject of the hearing to the person or persons filing the application, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.
- (7) Action by the Development Review Board. The Development Review Board will grant or deny the application for alternative compliance. The board must state the reasons used to reach its decision.
  - (a) If the application is approved by the Development Review Board, the administrator shall deliver a written notice of the decision, in print or electronic form, by personal delivery, electronic mail or by first-class mail to the applicant and property owner, if different from the applicant. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner. A written copy of the notice of decision shall also be mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing.
  - (b) If the application is disapproved by the Development Review Board, the administrator shall notify the applicant of the reasons for such disapproval in a written notice of decision delivered to the applicant and property owner, if different from the applicant, by personal delivery, electronic mail, or by first-class mail. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner. A written copy of the notice of decision shall also be mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing.

- (8) Approval criteria. Before granting approval of an application for alternative compliance, the Development Review Board must determine that:
  - (a) While the proposed alternative design does not strictly meet all of the standards of the Urban Street Design Guidelines it nevertheless satisfies their intent and is not an inferior improvement design.
  - (b) The proposed alternative design will have the same or higher level of service or adequacy as the standard required improvements. It is not the intent of the alternative compliance procedure to allow an inferior improvement design to the standards required by this chapter for the purpose of reducing cost.
  - (c) The departure from the standard is the minimum necessary, given the specific circumstances of the request.
  - (d) The proposed alternative design will not materially endanger the public health or safety if constructed where proposed and developed according to the plan as submitted and approved
- (9) Rehearing. The Development Review Board may refuse to hear an application for alternative compliance which is substantially similar to an application that has been previously denied.
- (10) Appeal from Development Review Board. Any appeal of a decision rendered by the Development Review Board under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be properly filed with the clerk of superior court within 30 days from receipt of the written notice of decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office, after the decision of the Development Review Board is filed in the office of the planning director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing, whichever is later.
- (11) Effect of grant of application for alternative compliance. After the approval of an application for alternative compliance, the applicant will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the alternative compliance to the regulations granted to the applicant by the Development Review Board or court.

## ARTICLE II. REQUIRED IMPROVEMENTS

**Sec. 20-58. - Modification of requirements; bond performance guarantees.**

- (a) In subdivisions adjoining already established streets that have been accepted for maintenance by the city or the state department of transportation, the requirements of this article will apply as follows:
  - (1) Those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable;
  - (2) Where the adjoining established street is a part of the city's or the state department of transportation's street system, the adjoining street must be improved in accordance with either the requirements of this article and the requirements of the city or the state department of transportation, whichever establishes the higher standard.
- (b) Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the city council or the state department of transportation, or which have been accepted for maintenance by the state department of transportation but have not been improved with a paved roadway, will be eligible for final approval when the requirements of this article have been complied with as closely as may reasonably be required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
- (c) Where the improvements required by this chapter have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner filing ~~a surety bond or an irrevocable letter of credit~~ performance guarantee with the engineering department. ~~in an amount to be determined by the city engineering department~~ The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued. The City, in consultation with other affected agencies, such as the department of environmental health, with ~~sureties~~ performance guarantees satisfactory to the city guaranteeing the installation of the required improvements allowing credit for improvements completed prior to the submission of the final plat, may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include 100% of the cost for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time. Upon completion of the improvements and the submission of as-built drawings, as required by this chapter, written notice thereof must be given by the subdivider to the appropriate engineering department.

The engineering department will arrange for an inspection of the improvements and, if found satisfactory, will, within 30 days of the date of the notice, provide written acknowledgement to the developer that the required improvements have been completed and authorize in writing the release or return of the ~~security~~ performance guarantees given, subject to the warranty requirement.

The developer shall have the option to post one type of a performance guarantee, in lieu of multiple bonds, letters of credit, or other equivalent security, for all matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

(Code 1985, § 20-44)

### **Sec. 20-59. - Inspection.**

- (a) The city must be notified two days in advance of the work to be started in a subdivision so that an authorized representative of the city engineer or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
- (b) The inspector must be allowed access to all parts of the work to ascertain whether or not the work as performed is in accordance with the specifications, and terms of approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- (c) No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
- (d) If any disputes arises as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

(Code 1985, § 20-45)

## **ARTICLE III. APPEALS AND VARIANCES**

### **Sec. 20-87. - Initiation.**

- (a) An appeal of a decision on a subdivision preliminary plan may be initiated by any person or incorporated or unincorporated association to which at least one of the members has standing per G.S. 160D-1402(c) is aggrieved or by any officer, department, board or bureau of the city or the county. However, only the applicant has the right to appeal from the disapproval of a final plat as required by section 20-18.
- (b) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

(Code 1985, § 20-57)

### **Sec. 20-88. - Filing of notice of appeal.**

- (a) A notice of appeal in the form prescribed by the planning commission must be properly filed with the planning director within ~~ten~~ 30 days from receipt of the written notice of the decision. If the notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. The notice filed with the planning director must be accompanied by a nonrefundable filing fee as established by the city council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section.
- (b) The filing of such notice will require the officer whose action is appealed to transmit to the planning commission all administrative ~~papers~~ materials, records, and other information regarding the subject matter of the appeal.
- (c) Except as provided in this article, the filing of such notice shall stay any proceedings, including the issuance of civil penalties in furtherance of the contested action.

(Code 1985, § 20-58)

### **Sec. 20-93. - Staff review.**

After receipt of a complete variance petition or notice of appeal from an action taken, the planning director will review the notice or petition and send a written recommendation to the planning commission, or the hearing committee, setting forth whether the appeal or variance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the notice of appeal or variance petition. The recommendation of the planning director will be submitted provided in written or electronic form to the planning commission and ~~mailed~~ to the appellant or petitioner, at the same time, at least five days prior to the scheduled public hearing.

(Code 1985, § 20-63; Ord. No. 2960, § 7, 5-16-2005)



## **Sec. 20-94. - Notice and hearing.**

- (a) The planning commission, or the hearing committee, will hold quasi-judicial hearings on any appeal or variance petition which comes before it in accordance with rules adopted by it for such purpose.
- (b) As per G.S. ~~160A-388(a2)~~, 160D-406(b) notices of hearings shall be mailed by the administrator or planning staff to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject to the hearing, and to other persons entitled to receive notice.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(Code 1985, § 20-64; Ord. No. 2960, § 8, 5-16-2005)

- (c) The administrator or planning staff shall transmit to the planning commission all applications, administrative materials , records, and other information regarding the subject matter being considered. The administrative materials may be distributed in written or electronic form to the members of the commission prior to the hearing if at the same time they are distributed to the commission a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. The planning commission chair shall rule on any objections. Rulings on unresolved objections shall be made by the commission at the hearing. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.
- (d) The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the City shall be present at the evidentiary hearing as a witness.

## **Sec. 20-97. - Appeal from planning commission.**

- (a) Every quasi-judicial decision of the planning commission, or the hearing committee, shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. ~~160A-393~~ 160D-1403. Any petition for a review of the planning commission's, or hearing committee's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court ~~by the later of (1) within 30 days after the decision is effective, or (2) 30 days after a from receipt of the~~ written ~~copy of the~~ notice of decision, is given in accordance

with Section 20-95 of this ordinance. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

- (b) If there is an appeal from the decision of the planning staff taken to the planning commission, or the hearing committee, then the person filing the appeal may not file a revised preliminary plan or revised final plat for the portion of the subject site affected by the appeal until the completion of the appeal, or any final judicial determination. The planning staff may approve a preliminary plan or final plat for that portion of the property not affected by the action of the appeal.

(Code 1985, § 20-67; Ord. No. 2960, §§ 11, 12, 5-16-2005)

## **Petition 2021-109 by Charlotte Planning, Design & Development**

### **To Approve:**

This petition is found to be **consistent** with the 2019 and 2020 North Carolina General Statutes Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Subdivision Ordinance to align with new N.C.G.S. Chapter 160D legislation; and
- The text amendment updates the processes for approvals and decisions, including written notices of decisions to both the applicant and the property owner.

Therefore, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The text amendment adds new conflict of interest standards for boards and administrative staff; and
- Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.

### **To Deny:**

This petition is found to be **consistent** with the 2019 and 2020 North Carolina General Statutes Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Subdivision Ordinance to align with new N.C.G.S. Chapter 160D legislation;
- The text amendment updates the processes for approvals and decisions, including written notices of decisions to both the applicant and the property owner;
- The text amendment adds new conflict of interest standards for boards and administrative staff; and
- Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**



**Agenda Date:** 6/1/2021

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**Agenda #:** 3. **File #:** 15-15834 **Type:** Zoning Item

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## **Rezoning Petition: 2021-113 by Charlotte Planning, Design, & Development - Text Amendment**

### **Summary of Petition:**

This Text Amendment proposes to update the Charlotte Tree Ordinance to bring it into compliance by July 1, 2021 with the requirements of North Carolina General Statute 160D. The text amendment 1) updates N.C.G.S. references to align with Chapter 160D legislation; 2) updates the processes and requirements for enforcement procedures; 3) updates the requirements for administrative decisions, evidentiary hearings and quasi-judicial procedures; 4) adds new vested rights and permit choice rules; and 5) adds conflict of interest standards for boards and administrative staff.

**Public Hearing Held:** May 17, 2021 - Item #24

**Staff Resource:** [Sandra Montgomery](#)

### **Staff Recommendation:**

Staff recommends APPROVAL of this petition.

### **Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

<b>REQUEST</b>	Text amendment to the Charlotte Tree Ordinance, Sections 21-31, 21-32, 21-122, 21-124, and 21-126.
<b>SUMMARY OF PETITION</b>	The petition proposes to update the Charlotte Tree Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to development by the July 1, 2021 deadline.
<b>PETITIONER</b>	Charlotte Planning, Design & Development
<b>AGENT/REPRESENTATIVE</b>	Charlotte Planning, Design & Development
<b>COMMUNITY MEETING</b>	Meeting is not required.

<b>STAFF RECOMMENDATION</b>	<p>Staff recommends approval of this petition.</p> <p><u>Plan Consistency</u> The petition is <b>consistent</b> with 2019 and 2020 North Carolina General Assembly legislation, Chapter 160D.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• The text amendment updates the Charlotte Tree Ordinance to align with new N.C.G.S. Chapter 160D legislation.</li> <li>• The text amendment updates the public notice requirements for evidentiary public hearings.</li> <li>• The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures.</li> <li>• The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.</li> <li>• The text amendment adds new conflict of interest standards for the Tree Advisory Commission and administrative staff.</li> </ul>
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## PLANNING STAFF REVIEW

- **Background**
  - In 2019 and 2020, the North Carolina General Assembly adopted new development legislation consolidating previous city enabling statutes (Article 19 of Chapter 160A) and county enabling statutes (Article 18 of Chapter 153A) and into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.
  - Chapter 160D legislation becomes effective July 1, 2021, or takes effect for a jurisdiction when local ordinances are updated and adopted, if adopted prior to July 1, 2021.
  - This text amendment updates the Charlotte Tree Ordinance to align regulations and processes related to land use to meet the July 1, 2021 deadline.
- **Proposed Request Details**

The text amendment contains the following highlights:

Sections 21-1 through 21-30

  - No changes.

Section 21-31

  - Requires the Tree Advisory Commission rules of procedure to be consistent with N.C.G.S Chapter 160D and kept on file at the office of the City Clerk and posted on the City of Charlotte website.

- Requires the Tree Advisory Commission to follow Chapter 160D statutory procedures for all quasi-judicial decisions.
- Requires the Tree Advisory Commission members to take an oath of office prior to starting their duties.
- Requires the Tree Advisory Commission members to comply with new conflict of interest standards.

#### Section 21-32

- Adds new conflict of interest requirements for staff that make administrative decisions.

#### Sections 21-33 through 21-121

- No changes.

#### Section 21-122

- Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.
- Requires a notice of violation to be provided to the holder of the development approval and to the landowner of the property involved, if different, and provides options for delivery of the notice or posting on the property. (Also in Section 21-124)
- Requires a notice of violation related to a civil penalty to be delivered to the person assessed the penalty by personal delivery, electronic delivery, or first-class mail. The notice may be posted on the property.
- Requires the staff person providing the notice of violation to certify that the notice was provided. (Also in Section 21-124)

#### Section 21-123

- No changes

#### Section 21-124

- Requires a notice of violation to be provided to the holder of the development approval and to the landowner of the property involved, if different, and provides options for delivery of the notice or posting on the property. (Also in Section 21-122)
- Requires the staff person providing the notice of violation to certify that the notice was provided. (Also in Section 12-122)

#### Section 21-125

- No changes.

#### Section 21-126

- Requires the Tree Advisory Commission to follow statutory quasi-judicial procedures in determining appeals of administrative decisions and variances.
- Requires the Tree Advisory Commission to vote in accordance with state law on appeals and variances.
- Requires notices of hearings to be sent to the petitioner, the property owner, if different from the applicant, and to owners of land abutting the parcel of land that is the subject of the hearing.
- Updates the variance findings of fact.
- Updates the requirements that appeals stay enforcement action and accrual of any assessment of any fines during the pendency of the appeal, unless there is imminent peril to life or property, or the violation is transitory in nature.
- Requires notices of appeals to be sent to the person or entity whose appeal is the subject of the hearing, if the owner did not initiate the hearing, and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least 10 days, but not more than 25 days prior to the date of the hearing. A notice of the hearing may also be posted on the site that is the subject of the hearing, or on an adjacent street or right-of-way.
- Requires every quasi-judicial decision of the Tree Advisory Commission to be subject to review by the superior court, and must be filed within 30 days after the decision is effective or a written copy of the decision is provided. When first-class mail is used to deliver the notice, three days shall be added to the time to file the petition.
- Updates the appeal procedures adding that if the administrative materials are forwarded to the Tree Advisory Commission prior to the hearing, they shall at the same time be distributed to the applicant and property owner, if different.
- Requires the administrator or staff person whose decision is being appealed, (or his or her successor if the person is no longer employed) to appear as a witness at the quasi-judicial hearing.
- Allows all parties with standing to participate fully in the evidentiary hearing.
- Requires the decision of the Tree Advisory Commission to be reduced to writing, reflect the commission's determination of contested facts and their application to the applicable standards, and approved by the Commission and signed by the Chair or other duly

appointed member. The decision shall be delivered by personal delivery, electronic mail, or by first-class mail to the petitioner, property owner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective.

- Requires the staff person who provides the notice to certify that proper notice has been made.

- **Public Plans and Policies**

- The North Carolina General Statute legislation requires the Charlotte Tree Ordinance to become compliant with N.C.G.S Chapter 160D regulations by July 1, 2021.

- **TRANSPORTATION SUMMARY**

- **Transportation Considerations**

- No comments submitted

**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 Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte Water:** No comments submitted.
- **City Arborist:** No comments submitted.
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments submitted.
- **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:** No outstanding issues.

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See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)

**Planner:** Sandra Montgomery (704) 336-5722

**2021-113 TEXT AMENDMENT SUMMARY**  
**CHARLOTTE ZONING ORDINANCE**  
**5/26/21**

This document summarizes the changes proposed to the Charlotte Tree Ordinance through petition 2021-113. Only the sections being revised are shown in the summary. Text to be added is in red and underlined. Text to be deleted is in red and struck through. The full ordinance, with the changes shown in the ordinance, can be found on the webpage for [rezoning petition 2021-113](#) on the Charlotte Planning, Design & Development website.

*(For all Chapters listed herein, section and subsection listings not shown remain unchanged)*

CHAPTER 21 TREES

ARTICLE II ADMINISTRATION

Sec. 21-31 Tree advisory commission

- (e) Any rules of procedure adopted by the tree advisory commission shall be consistent with the provisions of G.S. Chapter 160D and kept on file at the office of the City Clerk and posted on the City of Charlotte website.
- (f) In determining appeals of administrative decisions and variances, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec.160D-406.
- (g) The tree advisory commission shall keep minutes of its proceedings as required by G.S. Sec.160D- 308.
- (h) Each member shall take an oath of office before starting their duties as required by G.S. Sec. 160D- 309.
- (i) Each member shall comply with the conflict of interest standards as specified in G.S. Sec. 160D-109 and Section 1.111 of the City of Charlotte zoning ordinance.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-32 City jurisdiction and authority

- (d) No staff member shall make a final decision on an administrative decision



required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the city to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the city, as determined by the city. For purposes of this chapter, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

## ARTICLE V MODIFICATION, INSPECTION, ENFORCEMENT AND APPEAL

### Sec. 21-122 Inspections and investigations of sites

- (a) ~~Agents, officials or other qualified persons designated by the~~ Administrative staff of the city are authorized to inspect the sites subject to this chapter to determine compliance with this chapter, the terms of applicable development approval, or rules or orders adopted or issued pursuant to this chapter. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- (b) ~~No person shall refuse entry or access to any authorized city representative or agent who requests entry for the purpose of inspection, nor shall any person resist, delay, obstruct or interfere with such authorized representative while in the process of carrying out official duties.~~
- (eb) If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this chapter or rules or orders issued pursuant to this chapter, the city ~~will serve~~

may issue a written notice of violation. As specified by G.S. Sec. 160D-404(a), the notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of the violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The notice may be served by any means authorized under G.S. 1A-1, rule 4, or any other means reasonably calculated to give actual notice, such as facsimile or hand delivery. A notice of violation shall identify the nature of the violation and shall set forth the measures necessary to achieve compliance with this chapter. The notice shall inform the person whether a civil penalty will be assessed immediately or shall specify a date by which the person must comply with this chapter. The notice shall advise that failure to correct the violation within the time specified will subject that person to the civil penalties as provided in section 21-124 or any other authorized enforcement action.

- (~~dc~~) The city shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites subject to this chapter as specified by G.S. Sec. 160D-403(e) and subsection (a) of this section.

(Ord. No. 4521, § 1, 9-27-2010)

## Sec. 21-124 Penalties

- (d) *Notice.* The city shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. As specified by G.S. Sec. 160D-404(a), the notice of violation shall be delivered to the person assessed the civil penalty by personal delivery, electronic delivery, or first-class mail. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the city that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The notice of assessment ~~shall be served by any means authorized under G.S. 1A-1, rule 4, and~~ shall direct the

violator to either pay the assessment or contest the assessment as specified in section 21-126. If payment of assessed penalties is not received within 30 days after it is due, or if no request for a hearing has been made as provided in section 21-126, the assessment shall be considered a debt due and owing to the city, and the matter shall be referred to the city attorney for institution of a civil action to recover the amount of the debt. The civil action may be brought in the Mecklenburg County Superior Court or in any other court of competent jurisdiction.

Sec. 21-126. - Hearings and appeals.

- (a) Quasi-judicial procedure. In determining appeals of administrative decisions and variances, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec. 160D-406.

The commission shall vote in accordance with state law. Vacant positions on the commission and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the commission for calculation of the requisite majority if there are no qualified alternates available to take the place of such members

(ab) *Requests for variance.* Procedures for a request for a variance from this chapter are as follows:

- (1) ~~The decision of the city arborist or senior urban forester to deny a~~An application for a variance from the requirements of this chapter shall entitle the person submitting the application (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission. ~~within ten working days of receipt of the decision denying the variance.~~ As soon as possible after the receipt of the request, the chair of the commission will set a date, time and place for the hearing and notify the petitioner of the hearing by mail. The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. ~~The chair may appoint a three-member board selected from the appointed members of the commission to act as an appeal board and hear the request of the petitioner.~~ The hearing shall be conducted by the commission in accordance with subsection (ed).
- (2) As per G.S. Sec. 160D-406 notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the

hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Staff shall transmit to the commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission at the hearing.

~~(23)~~ The commission ~~or its designated appeal board~~ may grant a variance from the requirements of this chapter upon a finding that:

- a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- ~~a. Practical difficulties or unnecessary hardship would result if the strict letter of the law were followed; and~~

~~b. The variance is in accordance with the general purpose and intent of this chapter.~~

~~(4) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

~~(5) Variance approvals attach to and run with the land pursuant to G.S. Sec. 160D-104.~~

~~(bc)~~ *Appeals of decisions, notices of violation and assessments of civil penalties.*

Any party dissatisfied with a decision of the city adversely affecting such party in the application or enforcement of this chapter, including notices of violations and assessments of civil penalties, may request a public hearing before the commission. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the commission as specified in G.S. Sec. 160D-405(f), unless the city staff member who made the decision certifies to the commission, after notice of appeal has been filed that because of the facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with the enforcement of this chapter. In that case, enforcement shall not be stayed except by a restraining order, which may be granted by a court. Procedures for ~~such~~ appeal hearings are as follows:

- (1) The issuance of a decision, including a notice of violation or assessment of a civil penalty by the city, shall entitle the person subject to the decision or responsible for the violation (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission within 30 days of the receipt of a decision, notice of violation or assessment of a civil penalty. In the absence of evidence to the contrary, notice given pursuant to G.S. Sec. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- (2) As soon as possible after the receipt of the request, the chair shall set a date, time and place for the hearing and, as specified in G.S. Sec. 160D-406, notify shall mail notices to (1) the petitioner person or entity whose appeal is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to

mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

~~by mail of the date, time and place of the hearing.~~ The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. The hearing shall be conducted pursuant to G.S. Sec. 160D-406 and subsection (de).

(ed) *Petition for review of commission's decision.* Every quasi-judicial decision of the commission shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. Sec. 160D-1402. Any petition for a review of the commission's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court by the later of (1) 30 days after the decision is effective, or (2) 30 days after a written copy of the decision is given in accordance with subsection (1) of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. Any party aggrieved by the decision of the commission shall have 30 days from the receipt of the decision to file a petition for review in the nature of certiorari with the clerk of Mecklenburg County Superior Court.

(de) *Hearing procedure.* The following shall be applicable to any hearing conducted by the commission pursuant to subsection (a) or (b):

(1) At the hearing, the petitioner and the city shall have the right to:

- a. Be present and be heard;
- b. Be represented by counsel; and
- c. Present evidence through witnesses and competent testimony relevant to the issues before the commission.

(4) Staff shall transmit to the commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, a copy is also provided to the petitioner and to the property owner if that person is not the petitioner. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission the

hearing.

- (~~4~~5) Witnesses shall testify under oath or affirmation to be administered by the court reporter or another duly authorized official.
- (6) For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.
- (7) All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.
- (~~5~~8) The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant, competent, substantial and material evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing. Both the representative for the city and for the petitioner shall have the right to cross examine witnesses.
- (~~6~~9) At the conclusion of the hearing, the commission shall render its decision on the evidence submitted at such hearing and not otherwise.
- a. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the city's actions are true and substantiated, the commission shall, as it sees fit, uphold the city's action.
  - b. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the city's actions are not true and substantiated, the commission may, as it sees fit, reverse or modify any order, requirement, decision or determination of the city. The commission bylaws will determine the number of concurring votes needed to reverse any order, requirement, decision or determination of the city.
- (~~7~~10) The commission shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to vote. The decision of the commission shall be based on findings of fact and conclusions of law to support its decision. and shall be based upon competent, material, and substantial evidence in the record. The decision shall be reduced to writing, reflect the commission's determination of contested facts and their application to the applicable standards, and be approved by the commission and signed by the chair or other duly



authorized member of the commission.

~~(811) The commission shall send a copy of its findings and decision to the petitioner and the city. The decision of the commission shall be delivered by personal delivery, electronic mail, or by first- class mail to the petitioner, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.~~ If either party contemplates an appeal to a court of law, the party may request and obtain, at his own cost, a transcript of the proceedings.

(~~912~~) The decision of the commission shall constitute a final decision.

(Ord. No. 4521, § 1, 9-27-2010)



## Petition 2021-113 by Charlotte Planning, Design & Development

### To Approve:

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation, Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation.
- The text amendment updates the public notice requirements for evidentiary public hearings.
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures.

Therefore, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.
- The text amendment adds new conflict of interest standards for the Tree Advisory Commission and administrative staff.

### To Deny:

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation, Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the Charlotte Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation.
- The text amendment updates the public notice requirements for evidentiary public hearings.
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures.
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.
- The text amendment adds new conflict of interest standards for the Tree Advisory Commission and administrative staff.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

#### Approve or Deny

#### Maker:

2<sup>ND</sup>:

### Vote:

#### Dissenting:

#### Recused:



**Agenda Date:** 6/1/2021

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**Agenda #:** 4. **File #:** 15-15835 **Type:** Zoning Item

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## **Rezoning Petition: 2021-107 by Charlotte Planning, Design, & Development - Text Amendment**

### **Summary of Petition:**

This Text Amendment proposes to update the Mecklenburg County Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (known as Chapter 160D) effective 7-1-21. This text amendment 1) updates N.C.G.S. references to align with Chapter 160D legislation; 2) updates the processes and requirements for zoning map amendments, conditional rezoning, variances, appeals, certificates of appropriateness, administrative amendments; 3) updates the requirements for notices for hearings and decisions, evidentiary hearing and quasi-judicial procedures, and permit and enforcement procedures; 4) adds new vested right and permit choice rules; and 5) adds conflict of interest standards for boards and administrative staff.

**Staff Resource:** [Sandra Montgomery](#)

### **Staff Recommendation:**

Staff recommends APPROVAL of this petition.

### **Attachments:**

Post-Hearing Staff Analysis  
Text Amendment  
Statement of Consistency

<b>REQUEST</b>	Text amendment to Sections 1.102, 1.105, 1.110, 1.111, 1.112, 2.102, 2.201, 3.101, 3.202, 3.301, 3.302, 3.303, 3.401, 3.402, 3.403, 3.502, 3.603, 3.604, 4.102, 4.103, 5.101, 5.103, 5.107, 5.108, 5.109, 5.110, 5.113, 5.201, 5.203, 5.207, 5.208, 5.210, 5.213, 6.105, 6.107, 6.108, 6.109, 6.110, 6.111, 6.201, 6.204, 6.205, 6.206, 6.209, 7.103, 8.102, 8.103, 8.105, 9.402, 9.403, 9.404, 9.405, 9.406, 9.407, 9.408, 9.805, 10.203, 10.208, 10.209, 10.210, 10.213, 10.214, 10.216, 10.219, 10.510, 10.610, 10.710, 12.103, 12.509, 12.603, 13.103, 13.106, 13.110, 13.113, and 13.114.
<b>SUMMARY OF PETITION</b>	The text amendment updates the County Zoning Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use, which becomes effective July 1, 2021.
<b>PETITIONER AGENT/REPRESENTATIVE</b>	Mecklenburg County Land Use and Environmental Services Agency N/A
<b>COMMUNITY MEETING</b>	Meeting is not required.

<b>STAFF RECOMMENDATION</b>	<p>Staff recommends approval of this petition.</p> <p><u>Plan Consistency</u> The text amendment is <b>consistent</b> with 2019 and 2020 North Carolina General Assembly legislation N.C.G.S Chapter 160D.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• The text amendment updates the County Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation that becomes effective July 1, 2021;</li> <li>• The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;</li> <li>• The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures;</li> <li>• The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner;</li> <li>• The text amendment adds new conflict of interest standards for boards and administrative staff; and</li> <li>• The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.</li> </ul>
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#### **PLANNING STAFF REVIEW**

- **Background**
  - In 2019 and 2020, the North Carolina General Assembly adopted new land use legislation consolidating previous county enabling statutes (Article 18 of Chapter 153A) and city enabling statutes (Article 19 of Chapter 160A) into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.

- Chapter 160D legislation become effective July 1, 2021, or takes effect when local ordinances are updated and adopted.
- Mecklenburg County Land Use and Environmental Services Agency prepared this text amendment that updates the County Zoning Ordinance to align zoning regulations and processes related to land use to meet the July 1, 2021 deadline.
- **Proposed Request Details**

The text amendment contains the following major highlights:

  - General
    - Updates North Carolina General Statute references to align with the new N.C.G.S Chapter 160D references.
    - Requires all development approvals and decisions (including variances, appeals, certificates of appropriateness, administrative amendments, alternative compliance, site plan approvals, conditional zoning approvals, and zoning permits) to be written and provided to the applicant and property owner, if different.
    - Updates names of County Departments.
  - Chapter 1
    - Updates vested rights by adding multi-phased development with an extended vesting of up to seven (7) years.
    - Adds new details on the permit choice rule for vested rights.
    - Adds new conflict of interest standards for boards, appointed boards, and administrative staff.
  - Chapter 2
    - Updates definitions for “building”, “dwelling unit”, “manufactured home”, and deletes the definition for “mobile home”, to align with legislation.
    - Adds new definitions for “conditional zoning” and “dwelling” per legislation.
  - Chapter 3
    - Requires rules of procedures for appointed boards to be posted on the website and available at the City Clerk’s office, in addition to the office of the Charlotte Planning, Design, and Development Department.
    - Modifies the terminology of the historic district “guidelines” to historic district “standards”. (Also in Chapter 10)
    - Requires the Historic District Commission to follow updated statutory procedures for all quasi-judicial decisions.
  - Chapter 4
    - Updates the entities that can apply for a building permit to include property owners, a lessee or person holding an option or contract to purchase or lease land, an authorized agent of the property owner, or an easement holder (for development authorized by the easement).
    - Requires building permits to be issued in writing, in print or electronic form, and protected from further editing.
    - Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.
    - Requires a certificate of compliance/occupancy before using any land, building or structure or any change of use, except for agricultural purposes.
  - Chapter 5
    - Updates the duties of the Board of Adjustment to include decisions on appeals regarding a certificate of appropriateness.
    - Updates the appeal procedures adding that if the administrative materials are forwarded to the Board of Adjustment/Storm Water Advisory Committee prior to the hearing, they shall at the same time be distributed to the applicant and property owner, if different.
    - Updates the statutory procedures for evidentiary hearings, notices, and quasi-judicial decisions.
    - Updates the standards for granting a variance to align with Chapter 160D.
  - Chapter 6
    - Requires that any down-zoning of property must have the written consent of all property owners, except for a county initiated zoning map amendment.
    - Updates the notice of hearing provisions for zoning map amendments (rezoning petitions) and text amendments to the County Zoning Ordinance.
    - Reduces the number of days that a person can file an appeal from 60 days to 30 days for determinations made by the Zoning Administrator.
    - Adds requirements for the Planning Commission to adopt a statement of reasonableness for a zoning map amendment and a statement of plan consistency.

- Requires a petitioner to provide written consent to all conditions attached to the approval of a conditional rezoning.

#### Chapter 7

- Deletes the term, “mobile home” from the non-conforming regulations, leaving the term “manufactured home” in the text.

#### Chapter 8

- Requires a notice of violation to be provided to the property owner as well as the violator, and provides options for delivery of the notice to the occupant of the property or to the person undertaking the work or activity. Posting of the notice may also be made.

#### Chapter 9

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

#### Chapter 10

- Updates the statutory procedures for evidentiary notices, hearings, decisions, and procedures for the Historic District Commission and the Board of Adjustment.

#### Chapter 11

- No changes.

#### Chapter 12

- Adds new requirements that power lines do not have to be installed underground if several criteria are met: 1) the power lines existed above ground at the time of first approval of a plat or development plan, and 2) the power lines are outside the boundaries of the parcel that contains the subdivision or property covered by the development plan.

#### Chapter 13

- Updates the procedures for issuing or denying a sign permit and provides options for delivery of the permit or decision to the applicant and property owner, if different from the applicant.
- Requires sign permits to be issued in print or electronic form, and for permits issued exclusively in electronic form, the form shall be protected from further editing once issued.
- Updates the procedures for providing a written notice of the decision for a Planned Development Flexibility Option to the applicant and property owner, if different from the applicant.
- Requires written notices of violation to be provided to the permit holder and to the property owner, if different from the applicant, and that the notice may be posted on the property.

#### Chapter 14

- No changes.

#### Appendix and Index

- No changes.

#### • **Public Plans and Policies**

- The North Carolina General Assembly legislation requires the County Zoning Ordinance to become compliant with N.C.G.S Chapter 160D regulations no later than July 1, 2021.

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

- **Charlotte Area Transit System:** No comments submitted.
- **Charlotte-Mecklenburg Schools:** No comments submitted.
- **Charlotte Water:** No comments submitted.
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.

See Attachments (applications, department memos, maps, etc.) Online at [www.rezoning.org](http://www.rezoning.org)

Planner: Sandra Montgomery (704) 336-5722

# **2021-107 TEXT AMENDMENT SUMMARY – Revision 1**

## **MECKLENBURG COUNTY ZONING ORDINANCE**

### **05/20/21**

This document summarizes the changes proposed to the Mecklenburg County Zoning Ordinance through petition 2021-107. Only the sections being revised are shown in the summary. Text to be added is in red and underlined. Text to be deleted is in red and struck through. The full ordinance, with the changes shown in the ordinance, can be found on the webpage for [rezoning petition 2021-107](#) on the Charlotte Planning, Design & Development website.

## **CHAPTER 1: PURPOSE AND APPLICABILITY**

*(Section and Subsection listings not shown remain unchanged)*

### **Section 1.102. Authority and purpose.**

*(Subsections not listed remain unchanged)*

- (1) These regulations are adopted pursuant to the authority granted to the Mecklenburg County by Chapter 160D-101, Articles 1 through 14 ~~153A, Article 18~~ of the General Statutes of North Carolina, and by any special local legislation enacted by the General Assembly for the Mecklenburg County, in order to carry out the purposes listed below:

### **Section 1.105. Exceptions to applicability.**

*(Subsections not listed remain unchanged)*

- (1) These regulations shall not be applicable or enforceable without the consent of the owner with regard to lots, buildings, or structures for which a building permit has been issued prior to the effective date of these regulations so long as the permit has not been revoked pursuant to G.S. Sec. 160D-403(f);-1115 ~~153A-362~~. If construction authorized by the permit is not started within 6 months of the permit issuance, or after construction has commenced, it is discontinued for a period of 12 months, the permit shall immediately expire pursuant to G.S. Sec. 160D-403,-1111 ~~153A-357~~ and any further work shall be subject to these regulations.
- (2) Any amendments, modifications, supplements, repeal, or other changes to these regulations and restrictions or the Zoning Maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses for which either (a) a building permit has been issued prior to the effective date of the ordinance making the change, so long as the permit remains valid and unexpired pursuant to G.S. Sec. A153-358-160D-403(c);-1111 and the building permit has not been revoked pursuant

to G.S. Sec. ~~153A-422, 160D-403(f);-1115~~ or (b) a vested right has been established pursuant to Section 1.110 and such vested right remains valid and unexpired pursuant to Section 1.110. A permit issued pursuant to G.S. Sec. ~~153A-357 160D-403;-1110~~ shall expire by limitation in six (6) months after the date of issuance if the work authorized by the permit has not been commenced, except that a permit shall not expire or be revoked because of the running time while a vested right under Section 1.110 is outstanding. If after commencement the work is discontinued for a period of twelve (12) months, the permit therefore shall immediately expire except for a permit issued under Section 1.110. Upon issuance of a building permit under Section 1.110, the provisions of G.S. Sec. ~~153A-358 160D-403(c);-1111~~ and G.S. Sec. ~~153A-362 160D-403(f);-1115~~ shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under the section is outstanding. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

**Section 1.110. Procedures for establishing a vested right and permit choice.**  
(Subsections not listed remain unchanged)

**(1) Vested Rights**

Pursuant to ~~G.S. 153§ A-344.1 160D-102,-108 and 108.1~~, “Vested Rights”, a vested right to undertake and complete the development and use of the property under the terms and conditions as approved shall be established with respect to: ~~any property zoned as follows:~~

- (a) ~~site-specific vesting plans (including conditional zoning district plans (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and The approved plans and conditions for these conditional zoning districts constitute, for purposes of G.S. §160A385.1 160D-108(d) and 160D-108.1, site specific development plans.~~
- (b) ~~special-use permit. multi-phased development, and~~
- (c) ~~development permits in accordance with N.C.G.S.143-77~~
- (d) ~~the terms of development agreements authorized by N.C.G.S 160D, Chapter 10.~~

**(2) Period of Validity.**

- (a) Site-Specific Vesting Plans: A vested right for a site-specific plan (including conditional district zoning plans), which has been vested as provided for in this section, shall remain vested for a period of ~~from two to five~~ years.

The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum, up to a period of five years where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations.

- (b) Multi-phased developments: A vested right for a development with multiple phases has an extended vesting period of seven years from the time the first site approval is granted for the initial phase. The development must be at least 25 acres in size; subject to a master development plan with committed elements showing the type and intensity of use for each phase; and is to be permitted and built in phases subject to a master development plan with committed elements showing the type and intensity of use for each phase; and is to be permitted and built in phases.

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development

- (c) Development permits (including zoning permits, site plan approvals): Development approvals are valid for 12 months, unless work authorized by the permit is substantially commenced.
- (d) Modifications or amendments to an approved site-specific plan or multi- phased development does not extend the period of vesting unless specifically so provided by the City Council when it approves the modification or amendment.

### (3) Effect of a Vested Right.

- (a) A vested right, once established, precludes any action by the County Commission that would modify, alter, impair, prevent, diminish, or delay the development or use of the property allowed by the applicable zoning regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.
- (b) The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property, including, but not limited to, building, fire, plumbing, electrical and mechanical codes.
- (c) A vested right obtained under this section is not a personal right, but shall attach to



and run with the subject property, except for the use of land for outdoor advertising governed by G.S. 136-136.1 and G.S. 131.2 in which case the rights granted run with the owner of the permit issued by the North Carolina Department of Transportation.

- (d) New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right, shall become effective upon the expiration or termination of the vested rights.

(4) Expiration of a Vested Right.

- (a) A right, which has been vested as provided in this Section 1.110, shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.
- (b) A vested right expires for 1) an uncompleted development project, and 2) a nonconforming use of property if the development work or use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month period is tolled during any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property or the existence of the statutory vesting period.

(5) Permit Choice.

If an applicant submits a permit application for development, and after application submission, but before a development permit decision is made, the Development Regulation is amended, then the applicant may choose which version of the Development Regulation applies to the application and use of land, as per G.S. 143-755.

If the applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Where multiple development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of approval of the initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

If a permit application is on hold for six consecutive months, then permit choice is waived. If an applicant resumes an application after six months of discontinuation, then the rules in effect at the time of resuming apply.

### **Section 1.111. Conflicts of Interest.**

- (1) Governing Board. – A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (2) Appointed Boards. – Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- (4) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (5) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself

or herself, the remaining members of the board shall by majority vote rule on the objection.

- (6) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

~~The approved plans and conditions for these districts and the vested right certification constitute, for purposes of G.S. Sec. 153A-344.1 site specific development plans.~~

~~A right which has been vested as provided for in this section shall remain vested for a period of two to five years. The approving authority in its sound discretion may establish a vesting period exceeding the two year minimum where the applicant or petitioner shows such extended period is warranted in light of all relevant circumstances, including but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the County Commission when it approves the modification or amendment. A vested right obtained under this section is not a personal right but shall attach to and run with the subject property.~~

~~A right which has been vested as provided in this Section 1.110 shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.~~

#### **Section 1.1121. Vested right certification.**

*(Subsections not listed remain unchanged)*

Upon compliance with the provisions of this subsection, the ~~Planning~~ County Commission shall issue a vested right certification.

## **CHAPTER 2: DEFINITIONS AND RULES OF CONSTRUCTION**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: RULES OF CONSTRUCTION**

*(Section and Subsection listings not shown have not changed)*

#### **Section 2.102. Interpretation of Zoning Maps.**

*(Subsections not listed have not changed)*

- (8) If it is alleged by any party that an error exists on the zoning maps with respect to any zoning district designation, zoning district boundary, special use permit or conditional district boundary, historical district boundary, the lines showing the effective dates of zoning enactment or any other matter with respect to the provisions of these regulations

relating to zoning information, the party may request a review of the alleged error by the Planning Commission.

The staff of the Planning Commission will evaluate any alleged map error using all available materials and records. These materials may include, but are not limited to, the following:

(f) Zoning ~~and special-use permit~~ case files.

## **PART 2: DEFINITIONS**

*(Part, Section and Subsection listings not shown have not changed)*

### **Section 2.201. Definitions.**

*(Subsections and Definitions not listed are unchanged)*

#### **Building.**

~~A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods. Any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy.~~

#### **Conditional zoning.**

~~A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.~~

#### **Dwelling.**

~~Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Minimum Housing Codes it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.~~

#### **Dwelling unit.**

~~A room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family. A single unit providing complete, independent living facilities for no more than one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

#### **Manufactured Home. ~~(Also see Mobile home)~~**

~~A dwelling unit, other than a modular home, fabricated in an off-site manufacturing facility for~~

~~installation or assembly on the building site, which dwelling unit is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec. 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.~~

"Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

~~Mobile home. (Also see Manufactured Home)~~

~~A manufactured structure, designed to be used as a dwelling unit and built before June 15, 1976 (the date the HUD Construction and Safety Standards Act went into effect). A "mobile home" is designed to be transportable in one or more sections on its own chassis and measures at least 32 feet in length and at least eight feet in width. To be classified as a "mobile home", the unit must be placed on a permanent foundation.~~

## **CHAPTER 3: DECISION-MAKING AND ADMINISTRATIVE BODIES**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: BOARD OF COMMISSIONERS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 3.101. Powers and Duties**

*(Subsection listings not shown have not changed)*

The ~~Planning Commission~~ Board of Commissioners shall have the following powers and duties to be carried out in accordance with these regulations which include, but are not limited to, the following:

All members appointed to boards under this article shall, before entering their duties, qualify by taking an oath of office as required by ~~G.S. 153A-26~~G.S. 160D-309.

## **PART 2: PLANNING COMMISSION**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.202. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Planning Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of July 2, 1984, between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

## **PART 3: BOARD OF ADJUSTMENT**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.301. Powers and duties.**

*(Subsection listings not shown have not changed)*

The Zoning Board of Adjustment shall have the following powers and duties to be carried out in accordance with these regulations which include GS 160D-301, 604(c), (e) but are not limited to, the following:

### **Section 3.302. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Zoning Board of Adjustment shall be appointed and removed in accordance with the Board of Commissioners procedures. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

### **Section 3.303. Meetings, hearings and procedures.**

*(Subsection listings not shown have not changed)*

- (2) Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the office of the Zoning Administrator, and at the office of the City Clerk, and posted on the Charlotte Planning, Design & Development Department website and a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (5) The concurring vote of a simple majority of the members of the Board of Adjustment is required to reverse or modify any other, requirement, decision, or determination made by the

Zoning Administrator or to grant a zoning variance, as per special legislation from the requirements of these regulations.

- (6) In determining appeals of administrative decisions and variances, the Board of Adjustment shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.

#### **PART 4: HISTORIC DISTRICT COMMISSION**

*(Section and Subsection listings not shown have not changed)*

##### **Section 3.401. Powers and duties.**

*(Subsection listings not shown have not changed)*

- (2) To develop ~~standards~~ guidelines for development within designated historic districts.

##### **Section 3.402. Membership; officers.**

*(Subsection listings not shown have not changed)*

Members and officers of the Historic District Commission shall be appointed and removed in accordance with the Interlocal Cooperation Agreement made and entered into as of the effective date of this ordinance between the City of Charlotte and the County of Mecklenburg, as it may be amended from time to time. Each member shall take an oath of office before starting their duties and comply with the conflict of interest standards in Section 1.111.

##### **Section 3.403. Meetings, hearings, and procedures.**

*(Subsection listings not shown have not changed)*

- (2) Any rules of procedure adopted by the Historic District Commission shall be kept on file at the office of the Historic District Commission, and at the office of the County Clerk, and posted on the Charlotte Planning, Design, and Development website.
- (6) In determining certificates of appropriateness, the Historic District Commission shall follow the statutory procedures for all quasi-judicial decisions required by G.S. 160D-406.
- ~~(6)(7)~~ All decisions of the Historic District Commission in granting or denying a certificate of appropriateness may be appealed to the Board of Adjustment. A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by the owner or other party within thirty (30) days of the receipt of the written notice of the determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from the source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

## **PART 5: PROFESSIONAL STAFF**

*(Section and Subsection listings not shown have not changed)*

### **Section 3.502. ~~Building Standards Department~~ Code Enforcement; powers and duties.**

*(Subsection listings not shown have not changed)*

In addition to any authority granted to the Building Standards Code Enforcement Department by other laws and ordinances, the Zoning Administrator and the employees under his or her control shall have the following powers and duties, to be carried out in accordance with these regulations which include, but are not limited to, the following:

### **Section 3.603. Meetings, hearings and procedures.**

- (2) Any rules of procedure adopted by the Storm Water Advisory Committee with respect to its duties under this Ordinance shall be kept on file at the office of the Zoning Administrator, the County Clerk's office, and posted on the website a current copy or synopsis of such rules shall be provided to each appellant or applicant at the time of filing a notice of appeal or variance application.
- (5) The concurring vote of a simple majority of the members of the Storm Water Advisory Committee (five (5) of the nine (9) members regardless of the number of members present for a hearing) is required to reverse or modify any order, requirement, decision, or determination made by the Zoning Administrator. The Committee shall vote in accordance with state law ~~or~~ to grant a variance from the requirements of these regulations.

### **Section 3.604. Staff.**

The staff for the Storm Water Advisory Committee shall be provided by the Mecklenburg County ~~Engineering and Building Standards Department~~ Land Use & Environmental Services Agency (LUESA).

## **CHAPTER 4: DEVELOPMENT APPROVAL**

*(Section and Subsection listings not shown have not changed)*

### **Section 4.102. Building permit required.**

*(Subsection listings not shown have not changed)*

- (1) It is illegal for any person to begin the construction, reconstruction or demolition of a structure or any part of a structure, or to begin to excavate a structure, or to make any structural repairs, alterations, or additions to any structure, or to commence construction of any paved area, which will result in an area of more than twenty thousand square feet of impervious cover, without obtaining a building permit from the Director of Building Standards Code Enforcement.



- (2) Applications for a building permit may be made by the property owner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the property owner. An easement holder may also apply for a building permit for such development that is authorized by the easement.
- (3) Building permits shall be issued in writing and provide in print or electronic form. If an electronic form is used, it must be protected from further editing.
- (4) Building permits attach to and run with the land.
- (2-5) The Director of ~~Building Standards~~ Code Enforcement will not issue a building permit unless the plans, specifications, and intended use of the structure conform to the requirements of these regulations. The application for a building permit must be accompanied by information sufficient to allow the Director of ~~Building Standards~~ Code Enforcement to act on the request and be filed in the office of Director of ~~Building Standards~~ Code Enforcement accompanied by a fee established by the Board of Commissioners.
- (6) The Director of Code Enforcement, or his or her authorized designee shall inspect work undertaken through a building permit, to assure that the work is being done in compliance with the permit. Inspectors are authorized to enter any premises within the jurisdiction at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

**Section 4.103. Certificate of Compliance/Certificates of ~~occupancy~~ Occupancy required.**

*(Subsection listings not shown have not changed)*

- (1) It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of Compliance/-of occupancy.
- (2) A certificate of occupancy shall not be issued unless it has been determined that the site, parcel, building or structure is in compliance with all applicable provisions of these regulations, or an instrument, acceptable to the County, to guarantee conformance with these regulations.

**CHAPTER 5: APPEALS AND VARIANCES**

*(Part, Section and Subsection listings not shown have not changed)*

**PART 1: PROVISIONS OF GENERAL APPLICABILITY**

*(Section and Subsection listings not shown have not changed)*

**Section 5.101. Authority of Mecklenburg County Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Adjustment shall have the authority: ~~to hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator~~
  - (a) ~~To hear and decide appeals from and to review any specific order, requirement, decision, or determination made under these regulations by the Zoning Administrator.~~
  - (b) ~~To hear and decide all appeals regarding the issuance or denial of a Certificate of Appropriateness by the Charlotte Mecklenburg Historic Landmark Commission.~~
- (5) Pursuant to G.S. § ~~160D-406 153A-345(b) and (d)~~, the Board of Adjustment only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Board of Adjustment does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.
- (6) Variance approvals attach and run with the land.

### **Section 5.103. Filing of notice of appeal.**

*(Subsection listings not shown have not changed)*

- (1) A notice of appeal, in the form prescribed by the Board of Adjustment, shall be properly filed by ~~a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination~~ the owner or other party within ~~30 60~~ days of the day the ~~order, requirement, receipt of a written~~ determination by the Zoning Administrator or of his or her authorized designee. Any other person with standing to appeal has thirty (30) days from receipt from the source of actual or constructive notice of the determination ~~decision~~, within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the U.S. Postal Service. ~~determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Board of Adjustment rules of procedure.~~ The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Board of Adjustment shall have no jurisdiction to hear the appeal.
- (2) ~~Upon the filing of such notice, t~~The Zoning Administrator shall ~~forthwith~~ transmit to the Board of Adjustment all administrative papers, records, and other information regarding

the subject matter of the appeal. The administrative materials may be distributed to the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the applicant and to the property owner if that person is not the applicant. Administrative materials may be provided in written or electronic form.

- (3) An appeal stays all proceedings and enforcement action, including fines in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from which the appeal is taken and on due cause shown.

#### **Section 5.107. Notice and hearing.**

*(Subsection listings not shown have not changed)*

The Board of Adjustment shall, in accordance with rules adopted by it for such purpose, follow statutory procedures for evidentiary hearings and quasi-judicial ~~hold~~ decisions required by 160D-406 on any appeal or variance petition which comes before it. public hearings

As per G.S. § 160D-406 notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Staff shall transmit to the Board of Adjustment all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.

If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to section 5.113(1), then the aggrieved party, as stated in G.S. Sec. 160A-388(e), 160D-1402(c) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective.

The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**Section 5.108. Standards for granting a variance.**

*(Subsection listings not shown have not changed)*

- (1) Before granting a variance, the Board of Adjustment shall find: When unnecessary hardship would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all of the following:
  - (a) ~~That practical difficulties or unnecessary hardship would result from the strict application of these regulations; and~~ Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (b) ~~That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Zoning Board of Adjustment may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities; and~~ The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
  - (c) ~~That the public safety and welfare have been protected and substantial justice done. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.~~
  - (d) The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.
- (2) The Board of Adjustment shall not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or

expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. ~~Except under circumstances described in subsection (3) below, the Board of Adjustment shall not grant a variance.~~

- (3) ~~Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met: Appropriate conditions may be impose on any variance, provided that the conditions are reasonably related to the variance.~~
- ~~(a) — The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; and~~
  - ~~(b) — The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and~~
  - ~~(c) — The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.~~

#### **Section 5.109. Standards for granting an appeal.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Adjustment shall reverse or modify the specific order, requirement, decision, or determination under appeal only upon finding an error in the application of these regulations on the part of the officer rendering the order, requirement, decision, or determination pursuant to G. S. 160D-405.

#### **Section 5.110. Action by the Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (2) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment, then the aggrieved party, as stated in G.S. 160D-1402(c) ~~Sec. 153A-345(e)~~, must file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment at the time of the hearing of the case.
- ~~(3) The board shall vote in accordance with state law. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.~~
- ~~(4) Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision~~

shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board.

- (5) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.
- (6) If any aggrieved party wishes to receive a written copy of the decision of the Zoning Board of Adjustment pursuant to section 5.113(1), then the aggrieved party, as stated in G.S. Sec. 160D-1402(c) should file a written request for a copy of the Board's decision with the Secretary or Chairperson of the Zoning Board of Adjustment prior to the date the decision becomes effective.

### **Section 5.113. Appeal from Board of Adjustment.**

*(Subsection listings not shown have not changed)*

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Board's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is filed in the LUESA Charlotte-Mecklenburg Building Standards Department. Upon the filing of the decision in LUESA, the Building Standards Department the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.
- (2) If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. 153-345(e) aggrieved party either by personal service or by registered or certified mail with return written receipt requested. Every quasi-judicial decision of the Board shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. §160D-1402. Any petition for a review of the Board's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court by the later of (1) 30 days after the decision is effective, or (2) 30 days after a written copy of the decision is given in accordance with Section 5.110 of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Board of Adjustment to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the decision in LUESA Building Standards Department, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.

- (4) If a petition for review pursuant to G.S. § ~~160D-406(k)~~ ~~153A-345(e)~~ is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Zoning Board of Adjustment for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of debt owed.

**PART 2: SPECIAL PROVISIONS FOR APPEALS AND VARIANCES WITH RESPECT TO S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS, AND WATERSHED BUFFERS REGULATED BY A WATERSHED OVERLAY DISTRICT WHICH ARE WITHIN A S.W.I.M. STREAM BUFFER.**

*(Section and Subsection listings not shown have not changed)*

**Section 5.201. Authority of Charlotte-Mecklenburg Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (5) Pursuant to G.S. § ~~160D-925~~, ~~153A-345(b) and (d)~~, the Storm Water Advisory Committee only has the statutory authority to grant or to deny variances and to determine if the Zoning Administrator correctly or incorrectly interpreted and applied the zoning ordinance in rendering a decision. The Storm Water Advisory Committee does not have jurisdiction to address or rule upon constitutional and federal and state statutory issues or any other legal issues beyond its statutory authority.

- (6) Variance approvals attach to and run with the land.

**Section 5.203. Filing of notice of appeal.**

*(Subsection listings not shown have not changed)*

- (1) A notice of appeal, in the form prescribed by the Storm Water Advisory Committee shall be properly filed by a person aggrieved with the Zoning Administrator contesting the specific order, requirement, decision, or determination made or rendered by the Zoning Administrator within 60 days of the ~~day the order, requirement, receipt of a written decision,~~ within which to file. If the notice of the decision is sent by mail, it is presumed received on the third business day after it is sent. or determination is made or rendered by the Zoning Administrator. Such period for appeal shall be provided for in the Storm Water Advisory Committee rules of procedure. The notice filed with the Zoning Administrator shall be accompanied by a nonrefundable filing fee as established by the Board of Commissioners. Failure to timely and properly file such notice and fee shall constitute a waiver of any rights to appeal under this Chapter and the Storm Water Advisory Committee shall have no jurisdiction to hear the appeal.



- (2) ~~Upon the filing of such notice, t~~The Zoning Administrator shall ~~forthwith~~ transmit to the Storm Water Advisory Committee all administrative papers, records, and other information regarding the subject matter of the appeal. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. Administrative materials may be provided in written or electronic form.
- (3) An appeal stays all proceedings and enforcement actions, including fines in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Storm Water Advisory Committee, after notice of appeal has been filed, that because of facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of these regulations. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the Storm Water Advisory Committee from which the appeal is taken and on due cause shown.

**Section 5.207. Notice and hearing.**

*(Subsection listings not shown have not changed)*

The Storm Water Advisory Committee shall, in accordance with rules adopted by it for such purpose, ~~hold~~ follow statutory procedures for evidentiary hearings and quasi-judicial decisions required by 160D-406, public hearings on any appeal or variance petition which comes before it.

The Board of Adjustment Chair shall rule on objections to inclusion or exclusion of administrative material. Such a ruling may be appealed to the full Board. All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

**Section 5.208. Standards for granting a variance.**

*(Subsection listings not shown have not changed)*

- (1) ~~Before granting a variance, the Storm Water Advisory Committee shall find~~ When unnecessary hardship would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all the following:



- (a) ~~That practical difficulties or unnecessary hardship would result from the strict application of these regulations; Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. and~~
- (b) ~~That the spirit of these regulations should be observed by taking into consideration the general intent of these regulations. The Storm Water Advisory Committee may also consider any adopted district plan or area plan covering the property, any other adopted written policies governing land development and the construction and improvement of public facilities. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; and~~
- (c) ~~That the public safety and welfare have been protected and substantial justice done. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.~~
- ~~(e)(d) The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.~~
- (2) The Storm Water Advisory Committee shall not grant a variance, which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension or expansion of a nonconforming use, or would change the district boundary, or zoning classification of any or all of the subject property. ~~Except under circumstances described in subsection (3) below, the Storm Water Advisory Committee shall not grant a variance.~~
- (3) ~~Only the following three conditions shall constitute a practical difficulty or unnecessary hardship and all must be met:~~
  - ~~(a) The difficulty or hardship would result only from these regulations and~~
  - ~~(b) The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties in the same neighborhood and/or used for the same purposes; and~~
  - ~~(c) The difficulty or hardship resulting from the application of these regulations would prevent the owner from securing a reasonable return or from no other cause, including the actions of the owner or previous owners of the property; and making a reasonable use of the property. The~~

~~fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.~~

**Section 5.210. Action by Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (1) The Storm Water Advisory Committee shall grant or deny the variance or shall reverse, affirm, or modify the order, decision, requirement, or determination under appeal. The written decision shall be approved by the board, signed by the chair or other duly authorized member of the board, and protected from further editing. The Storm Water Advisory Committee shall make findings of fact and conclusions of law to support its decision.
- (2) If any aggrieved party wishes to receive a written copy of the decision of the Storm Water Advisory Committee, then the aggrieved party, as stated in ~~G.S. Sec. A-153345(e); 160D-925~~ must file a written request for a copy of the Committee's decision with the Secretary or Chairperson of the Storm Water Advisory Committee at the time of the hearing of the case
- (3) The decision of the Board of Adjustment shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

**Section 5.213. Appeal from the Storm Water Advisory Committee.**

*(Subsection listings not shown have not changed)*

- (1) If no aggrieved party files a written request for a copy of the decision at the time of the hearing of the case, then any petition for a review of the Committee's decision in the nature of certiorari by Superior Court must be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Storm Water Advisory Committee is filed in the Mecklenburg County ~~Engineering and Building Standards Department~~ LUESA. Upon the filing of the decision in the ~~Engineering and Building Standards~~ LUESA Department, the Zoning Administrator will make a notation on the filed decision stating the date upon which the decision has been filed.
- (2) If any aggrieved party has filed a written request for a copy of the decision at the time of the hearing of the case, as stated in G.S. Sec. ~~153-345(e); 160D-925~~ then a decision of the Committee may be delivered to that aggrieved party either by personal service or by registered or certified mail with return written receipt requested.
- (3) Any aggrieved party, who has filed a written request for a copy of the decision at the time of the hearing of the case, will have thirty (30) days from receipt of the decision of the Storm Water Advisory Committee to file the petition for review in the nature of certiorari in Superior Court with the Clerk of Superior Court, or will have thirty (30) days from the date of the filing of the

decision in ~~Engineering and Building Standard Department~~ LUESA, by the Zoning Administrator, as stated above in Subsection (1), whichever is later.

- (4) If a petition for review pursuant to G.S. §~~153A-345(e)~~ 160D-925 is filed, then the petitioner must order from the court reporter and pay for the original transcript of the hearing for delivery to the secretary of the Storm Water Advisory Committee for preparation of the filing of the record in superior court. If a court ultimately renders a decision in favor of the petitioner, then the County shall reimburse the petitioner for the cost of the transcript. In the event that the petitioner does not order the transcript and does not prevail on appeal, then the County shall request the Court to make the costs of the original transcript part of the costs of the action or recover the costs in the nature of the debt owed.

## **CHAPTER 6: AMENDMENTS**

*(Part, Section and Subsection listings not shown have not changed)*

### **PART 1: PROVISIONS OF GENERAL APPLICABILITY**

*(Section and Subsection listings not shown have not changed)*

#### **Section 6.105. Filing of petitions.**

*(Subsection listings not shown have not changed)*

- (2) Except for a county initiated zoning map amendment, no zoning map amendment that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment.

- ~~(2)~~(3) No application for reclassification of property will be accepted until it is complete. A decision by the Planning Director or his or her designee that an application is incomplete may be appealed to the Planning Commission. A decision by the Planning Commission that an application is incomplete may be appealed to the Board of Commissioners.

#### **Section 6.107. Staff review.**

*(Subsection listings not shown have not changed)*

- (2) The Planning Director shall deliver copies of the proposed amendment to other appropriate agencies including, but not limited to, the ~~Building Standards Code Enforcement~~ Department, Engineering Department, Health Department, ~~Department of Environmental Protection~~ LUESA, Parks and Recreation Department, Utilities Department, Charlotte- Mecklenburg Schools Staff and Fire Marshal.

#### **Section 6.108. Withdrawal and amendment of petition.**

*(Subsection listings not shown have not changed)*

- (1) A petition filed under Section 6.105 may be withdrawn by the petitioner at any time up to the day of the first publication of the public hearing notice as required under G. S. Section 160D-601(a). ~~adoption of a resolution by Board of Commissioners scheduling the date of the hearing for the petition.~~ After that time, the petitioner may file a request to withdraw the petition with the Planning Director. The Board of Commissioners shall decide, on the date scheduled for the hearing, whether to allow the withdrawal.

#### **Section 6.109. Notice of Hearing.**

*(Subsection listings not shown have not changed)*

- (1) **Hearing with published notice:** For adopting, amending, or repealing any ordinance or development regulation, and for proposed zoning map amendments, a notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (2) **Mailed notice:** For proposed zoning map amendments, the property owners of 1) affected parcels of land; 2) all abutting parcels; 3) other parcels located within 300 feet of the subject property; and neighborhood organizations within one mile, shall be mailed a notice of the hearing by first-class mail at the last addresses listed for such owners on the county tax abstracts. Properties are considered “abutting” even if separated by a street, railroad, or other transportation corridor. The notice shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.
- (3) **Posted Notice:** When a zoning map amendment is proposed, a notice of the hearing shall also be prominently posted be on the site proposed for the amendment, or on an adjacent public street or highway right-of-way. Posting of the notice on the site shall be made at least 10 but no more than 25 days prior to the date of the hearing.
- (4) **Optional notice for large-scale zoning map amendments.** The first-class mail notice for large-scale map amendments is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the City elects to publish notice of the hearing in a newspaper of general circulation, provided each advertisement shall not be less than one-half of a newspaper page in size. The notice of the hearing shall be given once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of the publication is not to be included but the day of the hearing shall be included. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who live outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to Section 6.109(b).

### **Section 6.110. Hearing.**

*(Subsection listings not shown have not changed)*

- (4) The Planning Commission shall also adopt a statement of reasonableness for a zoning map amendment. This statement of reasonableness may consider, among other factors, 1) the size, physical conditions, and other attributes of the area proposed to be rezoned, 2) the benefits and detriments to the landowners, the neighbors, and the surrounding community, 3) the relationship between the current actual and permissible development on a tract and adjoining areas and the development that would be permissible under the proposed amendment, 4) why the action taken is in the public interest, and 5) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a “large-scale rezoning”, the statement on reasonableness may address the overall rezoning.

The statement of plan consistency and the statement of reasonableness required may be approved as a single statement.

Per G.S. 41A-4 and G.S. 41-A-5(a), the Planning Commission, in making its written recommendation, shall not discriminate against affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. A written recommendation by the Planning Commission based on considerations of limiting high concentrations of affordable housing is permissible.

### **Section 6.111. Action by Board of Commissioners.**

*(Subsection listings not shown have not changed)*

- (1) The Board of Commissioners, after receiving the report ~~and~~ recommendation, and the consistency and reasonableness statement of the Planning Commission, shall consider the reports and recommendations, and the consistency and reasonableness statement of the Planning Commission, the Planning Commission staff, and other departments. Within a reasonable time the Board of Commissioners shall either reject the proposed amendment or adopt an ordinance enacting the proposed amendment with or without modifications.

## **PART 2: CONDITIONAL ZONING DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

### **Section 6.201. Purpose.**

*(Subsection listings not shown have not changed)*

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured

Housing District Commercial Center District, Neighborhood Services District, and Hazardous Waste District.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted “Generalized Land Plan”, and adopted district and area plans. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional ~~zoning~~ district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

**Section 6.204. Approval of Conditional ~~Zoning~~ District.**

*(Only the title of this section has changed. Subsection listings not shown have not changed)*

**Section 6.205. Conditions to Approval of Petition.**

*(Subsection listings not shown have not changed)*

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the petition, but only those conditions consented to by the portioners, in writing, may be incorporated into the conditional site-specific plan. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners.

**Section 6.206. Effect of Approval.**

*(Subsection listings not shown have not changed)*

- (4) Any conditional ~~zoning~~ district approved on or after October 1, 1991, shall have vested rights pursuant to ~~N.C.G.S. Section 153A-344.1~~ G.S. 160D-108 for the period of time established pursuant to Section 1.110 and 1.111 of this Zoning Ordinance, except as such vested rights may be altered as allowed by ~~N.C.G.S. Section 153A-344.1(e)~~ G.S. 160D-108.1. Vested rights

shall remain effective beyond the end of the period of time established pursuant to Section 1.110 and 1.111 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment, unless the approved site plan explicitly provides that an adult establishment is a permitted use or the site meets the standards of Section 12.518.

#### **Section 6.209. Protest Petitions**

*(Subsection listings not shown have not changed)*

New protest petitions are no longer allowed per the North Carolina General Statutes.

~~Protest petitions shall not be valid for any amendment to an adopted conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the conditional district.~~

### **CHAPTER 7: NONCONFORMITIES**

*(Section and Subsection listings not shown have not changed)*

#### **Section 7.103. Nonconforming structures.**

*(Subsection listings not shown have not changed)*

- (8) An existing ~~mobile home or~~ manufactured home as a principal residential building on an individual lot or located in a nonconforming mobile home or manufactured housing park or subdivision in operation at the time of adoption of these regulations may be replaced with another ~~mobile home or~~ manufactured home provided the number of ~~mobile home or~~ manufactured home units may not be increased beyond the number available before replacement and the replacing ~~mobile~~ manufactured home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. A replacement mobile home or manufactured home on an individual lot or subdivision shall adhere to the standards of Section 10.403, except for subdivision (c), unless located in a R-MH district or mobile home park.

### **CHAPTER 8: ENFORCEMENT**

*(Section and Subsection listings not shown have not changed)*

#### **Section 8.102. Zoning Administrator procedures.**

*(Subsection listings not shown have not changed)*

- (2) If the Zoning Administrator discovers a violation of these regulations, pursuant to G.S. 160D-404(a) the Zoning Administrator shall issue a written notice of violation notifying the violator and give the violator (holder of the development approval) and the property owner involved, if the property owner is not the violator, by personal delivery, electronic delivery, or first-class mail and may be provided to the occupant of the property or the



person undertaking the work or activity, or may be posted on the property. The notice shall and give a specified time to correct the violation. The person providing the notice of violation shall certify to the County that the notice was provided.

- (4) A notice of violation may be appealed to the board of adjustment.

### **Section 8.103. General enforcement provisions.**

*(Subsection listings not shown have not changed)*

The provisions of this Chapter may be enforced by anyone, all, or a combination of the remedies authorized by and prescribed by this Chapter. (a) Notices of violation. When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-11-23, 160D-120-6, or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

If inspecting, must enter the premises during reasonable hours and upon presenting credentials; must have consent of the premise's owner or an administrative search warrant to inspect areas not open to the public. G.S. 160D-403(e).

For revocation of development approval, must follow the same process as was used for the approval. G.S. 160D-403(f).

If a person continues to fail to comply with a particular provision of these regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed by this Chapter for the continued violation of the particular provision of these regulations. The Zoning Administrator shall have the power to impose fines and penalties for violation of the Zoning Ordinance, as provided herein, and may secure injunctions and abatement orders to further ensure compliance with the Zoning Ordinance as provided for in this Chapter. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Chapter.

### **Section 8.105. Citations.**

*(Subsection listings not shown have not changed)*

- (3) The citation shall direct the violator to make payment at the ~~Building Standards Department~~ LUESA within fifteen (15) days of the date of the citation, or alternatively pay the citation by



mail. If the violator does not make such payment or does not mail the citation and payment within fifteen (15) days of the issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation.

## **CHAPTER 9: GENERAL DISTRICTS**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 4: URBAN RESIDENTIAL DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 9.402. ~~Urban Residential districts: established.~~ Established.**

*(Only the title of Section 9.402 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.403. ~~Urban Residential districts: uses~~ Uses permitted by right.**

*(Only the title of Section 9.403 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.404. ~~Urban Residential districts: uses~~ Uses permitted under prescribed conditions.**

*(Only the title of Section 9.404 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.405. ~~Urban Residential districts: a~~ Accessory structures.**

*(Only the title of Section 9.405 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.406. ~~Urban Residential districts: a~~ Area, yard and height regulations.**

*(Only the title of Section 9.406 has changed.)*

*(Subsection listings not shown have not changed)*

#### **Section 9.407. ~~Urban Residential districts: d~~ Development standards for various uses.**

*(Subsection listings not shown have not changed)*

(1) Density bonus provisions

(c) Bonus permitted. The following density bonuses are established for the provision of the following features:

- v. For the preservation of a structure and/or land which has been designated

as a historic property pursuant to ~~G.S. 160A-399~~ 160D- 944 and 160D- 945 and for which a certificate of appropriateness has been secured, or for the preservation of a property listed in the National Register of Historic Places preserved in accordance with the Secretary of the Interior's standards for historic preservation projects, a floor area bonus of 5 percent of the base floor area ratio, but not less than 4 dwelling units shall be granted. For the preservation of only a building facade or a group or series of facades of a structure or structures which have been designated as a historic property as listed above, a floor area bonus of 2 percent of the base floor area ratio but not less than 2 dwelling units, is granted.

**Section 9.408. ~~Urban Residential districts:~~ Off-street parking and loading standards.**  
(Only the title of Section 9.406 has changed.)

**PART 8: BUSINESS DISTRICTS**  
(Section and Subsection listings not shown have not changed)

**Section 9.805. Development standards for business districts.**  
(Subsection listings not shown have not changed)

- (7) Special Development Requirements for the BP district. Additional development requirements for the BP district are specified below:
  - (b) Utility lines underground. All utility lines such as electric, telephone, CATV, or other similar lines must be installed underground, unless the following criteria are met:
    - (i) The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
    - (ii) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.
- (8) Administrative site plan approval required for BP district. Once the BP district has been established all development in the business park district must be built in accordance with an administratively approved site plan. Site planning in proposed developments must provide protection of the development from adverse surrounding influences and protection of surrounding areas from adverse influences within the development. The site plan must be designed giving adequate consideration to the minimum standards of these regulations and to the following factors: the size and shape of the tract; the topography and necessary grading, the reasonable preservation of the natural features of the land and vegetation; the size and relationship of buildings; and the character of

relationship to adjoining properties. Consideration should be given to the location and arrangement of parking areas, the nature and extent of screening, the design of and utilization of streets and open spaces. The site plan must be prepared by a registered professional land planner licensed to practice in North Carolina. This registration could include land planners with designations as AICP, ASLA, AIA, PE, or others so long as the designer of record specializes in site design.

- (a) Purpose. In order to assure compliance with minimum ordinance standards and to aid in the review and approval of development proposals, this Section establishes a site plan review process. This process is an administrative process conducted by the Director of the Planning Commission on behalf of the Director of the Building Standards Department LUESA. It is intended that this process occur early in the planning of a proposed development in order to streamline the approval process, to assure that ordinance standards will be met, to address any specific hardships which could warrant a variance from specific provisions, to assure that the proposal complies with adopted public policies regarding the area of the proposal, and to promote and protect the public health, safety, and welfare.
- (c) Review and approval. Within 20 business days of the receipt of a complete preliminary site plan, the Planning Director will review the proposal against the standards of this ordinance. In addition, the Planning Director may consult with other governmental agencies regarding the proposal as it relates to the standards of other ordinances in order to avoid unnecessary delays in the approval process.

If the preliminary plan meets the standards of this ordinance and is in general conformity with other applicable regulations, the Planning Director will mark the plan as "Approved for Final Plans" and return the approved plan to the applicant. The applicant is then free to develop any final site plans that may be necessary or required for the issuance of construction permits. In addition, the approval of the preliminary plan is necessary for the applicant to secure the necessary grading permits to begin work on the site.

All final site plans must be submitted to the Charlotte-Mecklenburg Building Standards Department LUESA for approval. One copy of the proposed final site plan will be reviewed by the Planning Director to assure compliance with the approved preliminary site plan.

## **CHAPTER 10: OVERLAY DISTRICTS**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 2: HISTORIC DISTRICTS**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.203. Certificate of appropriateness required.**

*(Subsection listings not shown have not changed)*

- (2) If a certificate shall be required, then the Historic District Commission staff will provide the applicant with an application form, instructions, and such technical advice as may be deemed necessary. The Historic District Commission shall prepare and adopt principles and guidelines standards, not inconsistent with Chapter ~~160A, Part 3C~~ 160D, Part 4 "Historic ~~Districts~~ Preservation", of the General Statutes, for new construction, alterations, additions, moving and demolition. A copy of the adopted principles and guidelines standards shall be kept at the Historic District Commission's Office and County Clerk's Office.
- (3) Work may not begin until a certificate has been issued. A certificate must be issued by the Historic District Commission through an evidentiary hearing prior to the issuance of a building permit or other permit granted, for the purposes of constructing, altering, moving, or demolishing structures, which a certificate may be issued subject to reasonable conditions necessary to carry out the purposes of N. C. General Statutes, Chapter ~~160A, Article 19, Part 3C~~ Chapter 160D, Article 9, Part 4. A certificate of appropriateness shall be required whether or not a building permit is required.

### **Section 10.208. Procedure.**

*(Subsection listings not shown have not changed)*

- (2) All properly filed applications for a certificate of appropriateness shall be reviewed and acted upon within a reasonable time. ~~In cases where the Historic District Commission deems it necessary, it may hold a public hearing concerning the application.~~

### **Section 10.209. Notice hearing, decision, and procedures**

*(Subsection listings not shown have not changed)*

- (2) ~~The Historic District Commission shall follow statutory procedures for evidentiary hearings and quasi-judicial decisions in 160D-406 when approving, approving with conditions, or denying a certificate of appropriateness application. The Historic District Commission shall take such steps as may be reasonably required under the particular circumstances, as stated in the "Rules of Procedure", to inform the abutting property owners and any other owners of any property likely to be materially affected by the application,~~ prior to the issuance or denial of a certificate of appropriateness.

Notices of evidentiary hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing, in accordance with G.S. 160D-406.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Staff shall transmit to the Historic District Commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission at the hearing.

All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.

The Historic District Commission Chair shall rule on objections to inclusion or exclusion of administrative material. Such a ruling may be appealed to the full Board.

The quasi-judicial decision shall be written, signed by the Chair, and effective upon filing the written decision with the clerk to the Commission.

The decision shall be delivered by personal delivery, electronic mail, or first-class mail to the applicant, property owner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the County that proper notice has been made.

#### **Section 10.210. Standards.**

*(Subsection listings not shown have not changed)*

- (1) In considering an application for a certificate of appropriateness, the Historic District Commission shall first determine that the project is compatible with the district as a whole in terms of size, scale, and massing, as well as maintaining a pedestrian scale and orientation. Further, the Historic District Commission shall apply the Secretary of Interior's Standards for Rehabilitation (See 36 Code of Federal Regulations, Section 67.7. Hereinafter: "Secretary's Standards") stated in Sub-section (2) and the principles and ~~guidelines~~ standards, referred to in Section 10.202(2), and adopted by the Historic District Commission. Although the Historic District Commission will use the "Secretary's Standards" as its guidelines, approval of a certificate of appropriateness by the Historic District Commission should not be interpreted as approval for any other process such as the Investment Tax Credits.

**Section 10.213. Appeal to Zoning Board of Adjustment.**

*(Subsection listings not shown have not changed)*

~~N. C. General Statutes Section 160A-397 establishes the appeal procedure.~~ An appeal in the nature of certiorari may be taken by any aggrieved party to the Zoning Board of Adjustment from the Historic District Commission's action granting or denying the certificate of appropriateness pursuant to Chapter 5 of these regulations. Any appeal must be filed with the Board of Adjustment within thirty days from after the decision is effective or receipt of the written notice of the determination. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition~~the date of the issuance or denial of the certificate.~~ An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County.

**Section 10.214. Enforcement**

- (2) Pursuant to N. C. General Statutes Section ~~160A-365~~ 160D-404, "Enforcement ~~of Ordinances~~", these Historic Districts' provisions may be enforced by any remedy provided in N. C. General Statutes Section ~~160A-175~~ 160D-404 and, also, as specifically described in Chapter 8 of this Zoning Ordinance.

**Section 10.216. Revocation of building permit.**

*(Subsection listings not shown have not changed)*

Pursuant to N. C. General Statutes Section ~~160A-422~~ 160D-1115, "Revocation of building permits", the Mecklenburg County ~~Building Standards Department Code Enforcement~~ shall be notified to revoke any building permits for any substantial departure from the approved application, plans, or specifications, for refusal or failure to comply with the requirements of a certificate of appropriateness. If a certificate of appropriateness is required, then a building permit shall not be issued. If a building permit has been mistakenly issued or issued based upon false statements or misrepresentations made in securing the building permits, then the building permit may be revoked.

**Section 10.219. Denial or revocation of certificate of compliance and occupancy.**

- (1) As stated in the Mecklenburg County Building Ordinance, Section B-114, "Certificates of Compliance and Occupancy", the Mecklenburg County ~~Building Standards Code Enforcement~~ Department shall not issue a certificate of occupancy or certificate of compliance unless there has been compliance with any certificate of appropriateness issued by the Historic District Commission. Compliance with a certificate of appropriateness shall include, but not be limited to, meeting all the requirements of the certificate of appropriateness in not doing any act which would have required a certificate of appropriateness.
- (2) Further, pursuant to Section B-115-2, "Revocation of Permits or Certificates", any permit or certificate of occupancy or certificate of compliance issued by the Mecklenburg County

~~Building Standards Code Enforcement~~ Department in violation of any of the Historic Districts' provisions, stated herein, also may be revoked by the Mecklenburg County ~~Building Standards Code Enforcement~~ Department.

## **PART 5: MOUNTAIN ISLAND LAKE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.510. Appeals and Variances.**

*(Subsection listings not shown have not changed)*

- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-1402.
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:
  - 2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-1402.
  - 3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
    - b. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and G.S. § ~~153A-345(e)~~ 160D-1402.

## **PART 6: CATAWBA RIVER/LAKE WHYLIE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.610. Appeals and Variances.**

*(Subsection listings not shown have not changed)*



- B. A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-923.
- C. A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations, with the following additions:
2. The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 "Standards for granting a variance". Any appeal of the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ 160D-923.
  3. The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, "Standards for granting a variance" of these regulations and the standard provided for in 15A NCAC 2B .0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
- If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board's hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board's denial of a major watershed variance shall be pursuant to Chapter 5 and ~~G.S. § 153A- 345(e)~~ 160D-1402. If the violator files an appeal, enforcement of civil penalties will pause during the appeal.

## **Part 7: LOWER LAKE WYLIE WATERSHED OVERLAY**

*(Section and Subsection listings not shown have not changed)*

### **Section 10.710. Appeals and Variances.**

*(Subsection listings not shown have not changed)*

- (2) A petition for a local watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and Variances, of these regulations. The Board of Adjustment shall have the authority to grant or to deny a local watershed variance based upon § 5.108, "Standards for granting a variance." Any appeal for the Board's decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ G. S. 160D-1402.
- (3) A petition for a minor watershed variance or a major watershed variance, as defined in this part, shall comply with all the procedures and standards of Chapter 5, Appeals and



Variances, of these regulations, with the following limitations:

- (b) The Board of Adjustment shall have the authority to grant or deny a minor watershed variance based upon § 5.108 “Standards for granting a variance”. Any appeal of the Board’s decision shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~; G. S. 160D-1402.
  - (c) The Board of Adjustment shall make a recommendation to grant or a decision to deny a major watershed variance based upon § 5.108, “Standards for granting a variance” of these regulations and the standard provided for in 15A NCAC 2B.0104(r), which states that a major watershed variance is to be determined on a case-by-case basis, when necessary to accommodate important social and economic development.
2. If the Board of Adjustment makes a decision to deny the major variance, then the record of the Board’s hearing, findings, and conclusions shall not be forwarded to the North Carolina Environmental Management Commission. Any appeal of the Board’s denial of a major watershed variance shall be pursuant to Chapter 5 and ~~G.S. § 153A-345(e)~~ G S 160D-923.

## **CHAPTER 11: CONDITIONAL ZONING DISTRICTS**

*(No changes to this chapter are proposed)*

## **CHAPTER 12: DEVELOPMENT STANDARDS OF GENERAL APPLICABILITY**

*(Part, Section, and Subsection listings not shown have not changed)*

### **PART 1: SUPPLEMENTAL DEVELOPMENT STANDARDS**

*(Section and Subsection listings not shown have not changed)*

#### **Section 12.103. Requirements for lots along thoroughfares.**

*(Subsection listings not shown have not changed)*

~~G.S. 153A-326~~ 160D-702 states that counties shall have authority to (i) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic loads, and other characteristics relevant to the achievement of the purposes of this Section, and establish by ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be setback from the right-of-way line or the centerline of an existing or proposed street. Pursuant to that authority, the following requirements shall apply:

## **PART 5: SPECIAL REQUIREMENTS FOR CERTAIN USES**

*(Section and Subsection listings not shown have not changed)*

### **Section 12.509. Public utility transmission and distribution lines.**

*(Subsection listings not shown have not changed)*

All electricity, telephone, CATV, and other utility distribution lines, which deliver service to the end user from a transmission line providing service to an area larger than the individual parcel or project area in developing or redeveloping areas, shall be installed underground in all zoning districts, except the Research, Institutional and BP districts unless terrain, subsurface or surface obstructions inhibit installation. ~~This provision does not apply to the Research, Institutional and BP districts., or if the following criteria are met:~~

- (1) If electric utility distribution lines exist above ground at the time of first approval of a plat or development plan approval, whether or not the distribution lines are subsequently relocated during construction of the subdivision or development plan
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or property covered by the development plan.

## **PART 6: STORMWATER DRAINAGE**

*(Section and Subsection listings not shown have not changed)*

### **Section 12.603. Standards for plan approval.**

*(Subsection listings not shown have not changed)*

The following standards shall be met for approval of a storm water drainage plan:

- (1) The County Engineer shall review the drainage plan for compliance with the standards contained in the current edition of the Charlotte-Mecklenburg Land Development Standards Manual, the Charlotte-Mecklenburg Storm Water Design Manual, which is to be adopted in its entirety ~~pursuant to G.S. 153A-47~~, and all other relevant and appropriate standards established by the Engineering Department.

## **CHAPTER 13: SIGNS**

*(Section and Subsection listings not shown have not changed)*

### **Section 13.103. Procedures.**

*(Subsection listings not shown have not changed)*

- (3) Issuance of Permits

Upon the filing of an application for a sign permit made by the property owner, a lessee or

person holding an option or contract to purchase or lease the property, or an authorized agent of the property owner, the Zoning Administrator shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. The Zoning Administrator or their designee shall examine the plans and specifications, and as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. The Zoning Administrator or their designee shall issue a sign permit in writing to the applicant. The sign permit shall be issued in print or electronic form. Any permit issued exclusively in electronic form shall be protected from further editing once issued. The permit shall be delivered by personal delivery, electronic mail, or by first-class mail, to the applicant and the property owner, if different from the applicant. The permit shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, a written notice of the sign permit shall be delivered to the last address listed for the property owner on the county tax abstract.

If the sign permit is denied, the Zoning Administrator or designee shall deliver a written notice of the decision to the applicant at the address on the application, and to the property owner, if different from the applicant. The written notice shall be provided by personal delivery, electronic mail, or first-class mail, and shall be delivered to the applicant's address provided on the application. If the applicant is different from the property owner, the notice shall be delivered to the last address listed for the property owner on the county tax abstract.

An appeal of the decision shall be made to the Zoning Board of Adjustment and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

(5) Final Inspection

Upon notification of completion by the permit holder, the ~~Building Standards Department~~ LUESA shall make a final inspection of the sign to verify conformance with applicable codes.

**Section 13.106. Signs not requiring a permit.**

*(Subsection listings not shown have not changed)*

(8) Campaign or Election signs provided:

- (c) Prior to the erection of any campaign or election sign, the candidate or an authorized representative shall post a bond with ~~Building Standards~~ LUESA in the amount of \$50.00 guaranteeing the removal of such signs within 7 days after the election for which they are used;

### **Section 13.110. Creation of Special Sign Regulations.**

*(Subsection listings not shown have not changed)*

- (5) In approving or disapproving the Planned Development Flexibility Option, the Planning Design, & Development Director shall deliver written notice of the decision, in print or electronic form to the applicant and property owner, if different from the applicant by personal delivery, electronic mail, or by first-class mail,

If the request is not approved, the reasons shall be stated in the notice of the decision. Any notice of decision issued exclusively in electronic form shall be protected from further editing once issued.

The notice shall be delivered to the applicant at the address provided in the application, and to the property owner, if different from the applicant, at the last address listed for the owner of the property on the county tax abstract.

An appeal of the decision to the Board of Adjustment shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office.

### **Section 13.113. Enforcement.**

*(Subsection listings not shown have not changed)*

- (2) Citations

If, through inspection, it is determined that a person has failed to comply with the provisions of these regulations, the Zoning Administrator shall issue a warning citation to the violator. Violations shall be corrected within ten (10) days of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to Section 8.105, 'Citations', of this Ordinance, which is incorporated by reference herein as if fully stated.

For violations, a written notice of violation shall be sent to the permit holder and to the property owner, if the property owner is not the holder of the permit. Notices of violation shall be provided by person al delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The Notice of Violation may be posted on the property. The person providing the notice of violation shall certify to the City that the notice was provided.

### **Section 13.114. Variances and Appeals.**

- (1) In accordance with the procedures stated in Chapter 5 of the Zoning Ordinance, the Board of Adjustment, before granting a variance shall find: When unnecessary hardship would result

from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the Zoning Ordinance upon showing of all of the following: shall have the power to hear and act upon applications for a variance from the requirements of these regulations after making the following finding:

- (a) That a variance is necessary because of unique features of the site such as its terrain or existing landscaping, or because of unique structural circumstances involved that are not applicable to other structures in the same zoning district. The fact that the sign may be utilized more profitably should a variance be granted will not be considered grounds for a variance. Unnecessary hardships would result from the strict application of the ordinance. It shall be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) That the special conditions do not result from the actions of the applicant or of a previous owner of the property. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (c) That granting the variance requested shall not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning district. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship.
- (d) That granting the variance requested shall not confer on the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant. The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, such that public safety is secured, and substantial justice is achieved.
- (e) ~~That the variance granted is the minimum variance that shall make possible the reasonable use of the land, building, or structure.~~
- (f) ~~That granting a variance shall not conflict with the stated purposes of these regulations.~~
- (g) ~~That granting a variance shall not have an adverse impact upon neighboring properties.~~

- (7) In addition to the powers and duties contained herein, the Mecklenburg County Zoning Board of Adjustment is designated by the Charlotte City Council, pursuant to G.S. ~~160A-361(7)~~, 160D-302 as a planning agency authorized and directed to grant variances pursuant to Section 13.114(1)-(3) and (5) of the City of Charlotte Zoning Ordinance and one-time extensions not to exceed two years pursuant to Section 13.114(4) of the City of Charlotte Zoning Ordinance with respect to signs within the corporate limits of the City of Charlotte that do not comply with the regulations of Chapter 13 of the City of Charlotte Zoning Ordinance and are subject to the 8-year amortization period of Section 13-112(1)(a) of the City of Charlotte Zoning Ordinance.

This designation and authorization of the Mecklenburg County Zoning Board of Adjustment shall not affect in any way the jurisdiction of the City of Charlotte Zoning Board of Adjustment. The City Zoning Board of Adjustment shall have the authority to adopt guidelines for the City Zoning Board of Adjustment's clerk in assigning applications with respect to the above-referred to signs to the City or the County Board of Adjustment.

Notwithstanding any ordinance provision or rules of procedure to the contrary, the Zoning Administrator shall have the authority to designate in the notice the time within which applications must be timely and properly filed being no less than 60 days and no more than 120 days from the date of the notice.

Any appeals from the Mecklenburg County Zoning Board of Adjustment to Superior Court for City applications shall be pursuant to G.S. ~~160A-388(e)~~, 160D-406(k) This subsection (7) shall automatically expire as of April 1, 1998.

**Petition 2021-107 by Mecklenburg County Land Use and Environmental Services Agency**

**To Approve:**

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation N.C. G. S. Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the County Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation that becomes effective July 1, 2021;
- The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures; and
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.

Therefore, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The text amendment adds new conflict of interest standards for boards and administrative staff; and
- The text amendment updates the vested rights and permit choice provisions to include multi-phase developments.

**To Deny:**

This petition is found to be **consistent** with 2019 and 2020 North Carolina General Assembly legislation N.C. G. S. Chapter 160D, based on the information from the staff analysis and the public hearing, and because:

- The text amendment updates the County Zoning Ordinance to align with new N.C.G.S. Chapter 160D legislation that becomes effective July 1, 2021;
- The text amendment updates the processes for filing applications, and the public notice requirements for legislative and evidentiary public hearings;
- The text amendment updates the evidentiary hearing provisions and quasi-judicial procedures; and
- The text amendment updates the processes for all development approvals, including written notices of decisions to both the applicant and the property owner.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**



**Agenda Date:** 6/1/2021

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**Agenda #:** 5. **File #:** 15-15821 **Type:** Zoning Item

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## **Rezoning Petition: 2017-118 by Phillips Investments Properties**

**Location:** Approximately 0.78 acre located on the west side of Statesville Road, north of Cindy Lane.  
(Council District 2 - Graham)

**Current Zoning:** R-4 (single-family residential)

**Proposed Zoning:** B-2 (CD) (general business, conditional) with five-year vested rights

**Public Hearing Held:** May 17, 2021 - Item #25

**Staff Resource:** [Michael Russell](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

Statement of Consistency

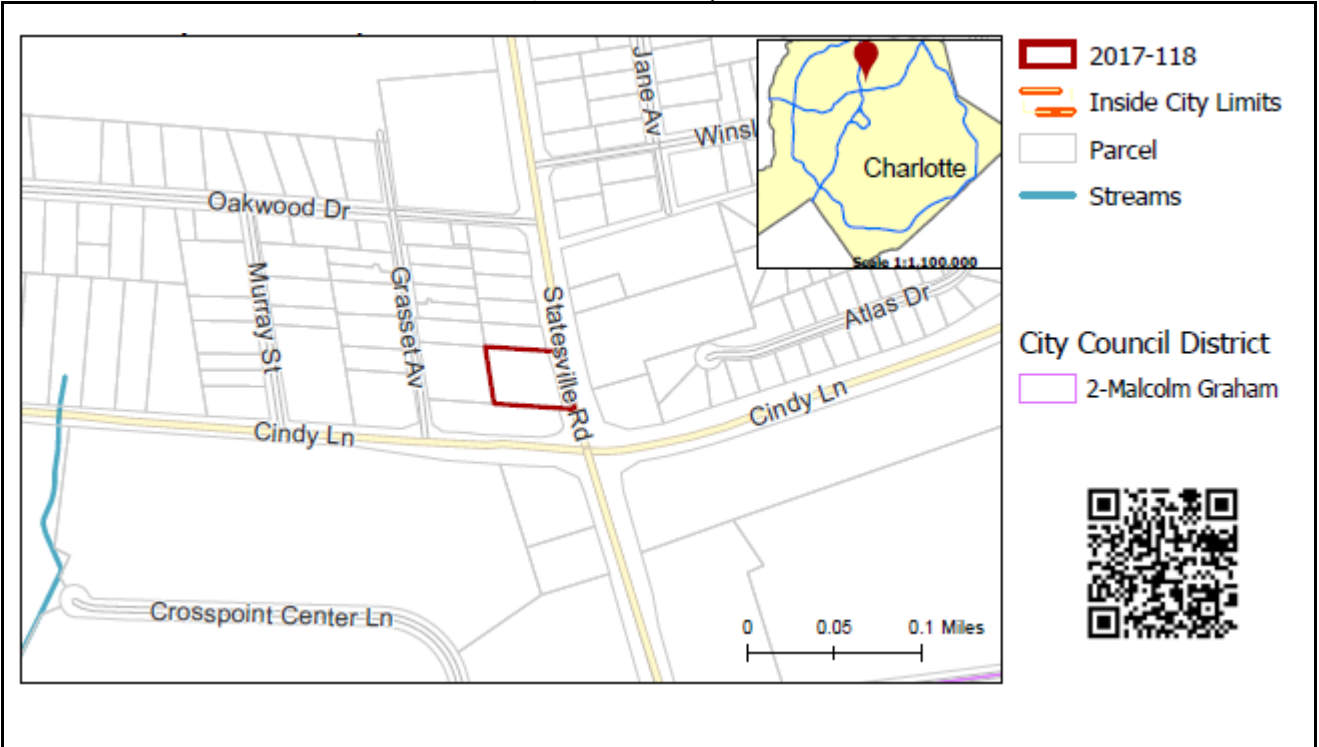


**REQUEST**

Current Zoning: R-4 (single family residential)  
Proposed Zoning: B-2(CD) (general business, conditional)

**LOCATION**

Approximately 0.78 acres located on the west side of Statesville Road, north of Cindy Lane.



**SUMMARY OF PETITION**

The petition proposes an 11,500 square-foot warehouse addition and parking for an abutting business on vacant land.

**PROPERTY OWNER**

Phillips Investment Properties, LLC

**PETITIONER**

Phillips Investment Properties, LLC

**AGENT/REPRESENTATIVE**

John Phillips

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 0

**STAFF  
RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **inconsistent** with the *Northeast District Plan (1996)* recommendation of single family uses up to 4 dwelling units per acre.

Rationale for Recommendation

- This petition proposes a warehouse addition and nine additional parking spaces as an expansion of an already-existing business located on the parcel directly below this site.
- This site had been used as overflow parking for the adjacent auto parts business, but after the widening of Statesville Road the parking lot did not meet zoning requirements in its current form. This petition will formalize the parking spaces and bring the site up to current zoning code.

- The site will add a 22-foot class B buffer and tree save area between the site and the surrounding single-family homes and add a 5-foot sidewalk connecting the sidewalk on Statesville Road to the new warehouse addition and parking lot.
- The existing auto parts business on the adjacent site and the parking lot was recognized by the *Northeast District Plan (1996)* even though the plan recommends single family residential uses for this site, and the site use is currently not out of character with the commercial sites across the street.
- Adding a parking lot and warehouse space along with appropriate buffers will make the site safer for the surrounding residents and for pedestrians.

The approval of this petition will revise the adopted future land use as specified by the *Northeast District Plan*, from Single-family Residential up to 4 DUA to General Business for the site.

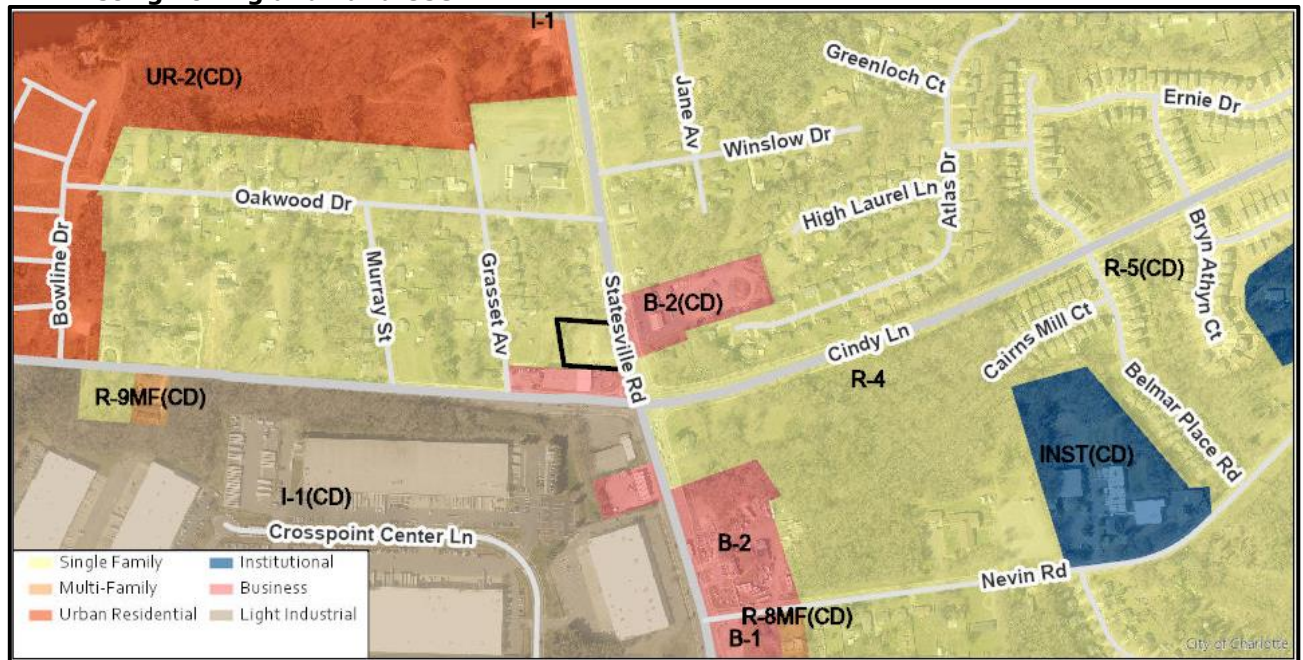
### PLANNING STAFF REVIEW

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Allows an 11,500 square-foot warehouse addition.
- Provides 9 new parking spaces.
- Commits to an 8-foot planting strip and 6-foot sidewalk along Statesville Road.
- Connects the sidewalk on Statesville Road to the new warehouse addition and parking lot with a 5-foot sidewalk.
- Provides a 22-foot Class B buffer with a wooden fence to abutting residential.

- **Existing Zoning and Land Use**



The surrounding land uses include single family residential, warehouse, retail, and commercial uses.





The subject property denoted with a red star.



The property to the south along Cindy lane and Statesville Road is developed with a warehouse use.





The property to the north along Statesville Road is developed with single family homes.



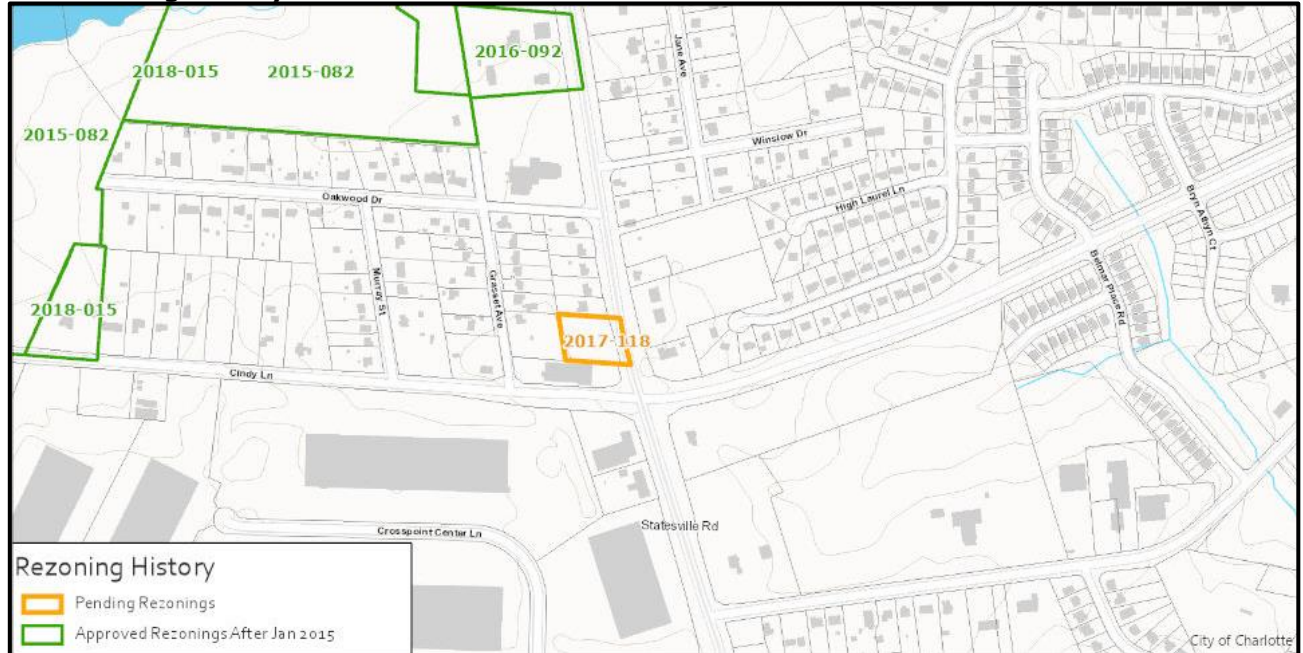
The property to the west along Grasset Avenue is developed single family homes and vacant land.



The property to the east across Statesville Road is developed with an asphalt company.

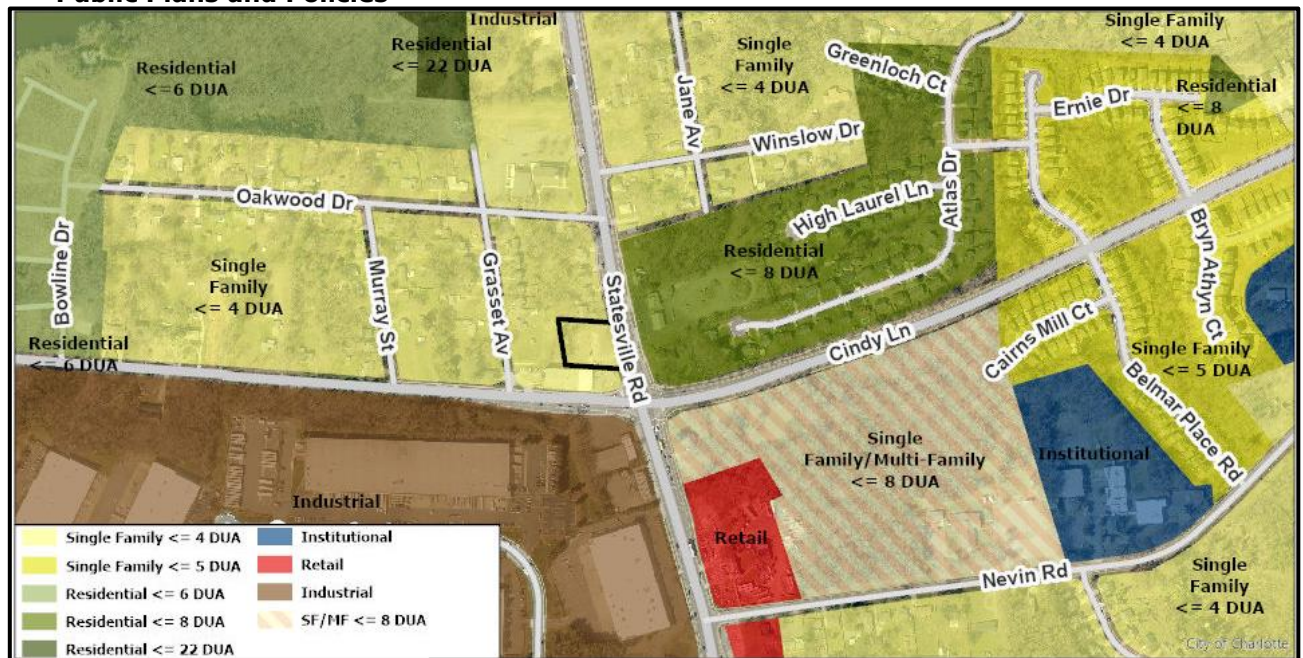


- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2015-082	Rezoned 64.33 acres to allow up to 270 multi-family dwelling units and 480 single family dwelling units.	Approved
2016-092	Rezoned 5.63 acres to add undeveloped parcels to a previously approved residential development - rezoning petition 2015-082.	Approved
2018-015	Rezoned 66.50 acres to modify a previously approved site plan to change the residential unit types and to decrease the number of units.	Approved

- Public Plans and Policies**



- The *Northeast District Plan* (1996) calls for Single-family uses up to 4 DUA for the site.

- **TRANSPORTATION SUMMARY**

- The site is located on a major thoroughfare road (Statesville Road). The trip generation is the same for the proposed and entitlement land uses (see trip generation table). The petitioner has committed to installing 8-foot planting strip and 6-foot sidewalk along Statesville Road. CDOT recommends for the petitioner to coordinate with Urban Forestry to identify the appropriate locations for sidewalk placement to preserve existing trees. The sidewalk may meander outside of the public right-of-way to preserve existing trees, to be dedicated within a sidewalk-utility-easement (SUE). All CDOT items are addressed.
- **Active Projects:**
  - Street Lighting - Statesville Avenue Phase II
    - This project will implement street lighting along the Statesville Avenue corridor
    - Project phase: Design
    - Construction: 2020
    - CDOT PM: Anthony Mendez
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**

Current Zoning:  
Existing Use: 0 trips per day (based on vacant land).  
Entitlement: 40 trips per day (based on 3 single family dwellings).  
Proposed Zoning: 40 trips per day (based on 11,500 square-feet of warehouse uses.).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No outstanding issues.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte-Mecklenburg Schools:** Nonresidential petitions do not impact the number of students generated.
- **Charlotte Water:** Charlotte Water has water system availability for the rezoning boundary via an existing 12-inch water distribution main located along Statesville Road. Charlotte Water has sewer system availability for the rezoning boundary via an existing 8-inch gravity sewer main located along Statesville Road. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Engineering and Property Management:**
  - **Arborist:** No outstanding issues.
  - **Erosion Control:** No outstanding issues.
  - **Land Development:** No outstanding issues.
  - **Storm Water Services:** No outstanding issues.
  - **Urban Forestry:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No outstanding issues.
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.

**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** Michael Russell (704) 353-0225



## SITE NOTES:

REZONING PETITION # 2017-118

NEW WAREHOUSE BUILDING = 11,500 SF

PROPOSED USE: WHOLESALE STORAGE

PARKING AT .25 PER 1000 SF OF WAREHOUSE

11,500 SF / 1000 SF \* 0.25 = ~3

3 SPACES REQUIRED

9 SPACES PROVIDED

BICYCLE PARKING AT 1 PER 40,000SF

1 BICYCLE PARKING REQUIRED

9 TOTAL PARKING SPACES

THEREFORE 1 HANDICAP SPACE

REQ'D

HOURS OF OPERATION 7AM-6PM M-F

## REZONING NOTES:

## I. DEVELOPMENT DATA TABLE

- Site Acreage: 0.18 AC
- Tax Parcels Included In Rezoning: 0415106
- Existing Zoning (including overlays and vesting): R-4
- Proposed Zoning (including overlays and vesting): B-2(CD)
- Number of Residential Units by Housing Type: NA
- Residential Density: NA
- Square Footage of Non-Residential Uses by Type: 11,500
- Floor Area Ratio: 0.34
- Maximum Building Height: 40'
- Maximum Number of Buildings: 1 (Attached)
- Number and/or Ratio of Parking Spaces: Wholesale Establishments 0.25 spaces per 1000 SF for the wholesale portion 11,500 SF/1000 SF \* 0.25 = ~3 spaces 9 spaces provided (including 1 handicap space)
- Amount of open space: 0.40 AC

## 2. GENERAL PROVISIONS

- Note addressing applicability of ordinances: B-2(CD) allows for wholesale business operations.
- Note that alterations to the conditional plan are subject to Section 6.207 Alterations to Approval

## 3. OPTIONAL PROVISIONS

- Listing of all optional provisions: NA

## 4. PERMITTED USES

- Allowed uses or prohibited uses: Allowed use - The site may be used for any use that is allowed by right in the B-2 district or under prescribed conditions in the B-2 district. Proposed use is for warehouse and part reconditioning.

Other Use Restrictions: Prohibited uses shall be consistent with permitted uses table in the zoning ordinance.

## 5. TRANSPORTATION

- Dedication and reservation of street right-of-way to City/NC DOT: Already done via widening of Statesville Rd
- Transportation Improvements constructed in conjunction with development: Use of existing drive and addition of new driveway on Statesville Rd. (shall be constructed as a Type II modified driveway).
- Petitioner agrees to dedication and fee simple conveyance of rights of way to the City of Charlotte prior to receipt of Certificate of Occupancy.
- Petitioner specifies that all transportation improvements will be constructed prior to receipt of Certificate of Occupancy.
- Permittable drawings/documents will incorporate dedication measurement from RDNY C/L.

## 6. ARCHITECTURAL STANDARDS

- Building Materials: Concrete, Aluminum, Steel to match existing
- Building Scale: Single Story w/ mezzanine and knee wall
- Treatment of urban design and architectural elements, such as street walls, building entrances, canopies and balconies: 20' X 10' Canopy at building entrance, shrubs at parking areas. 20% minimum clear windows.
- Fence/Wall Standards: Wrought Iron, wood, or similar.

## 7. STREETSCAPE AND LANDSCAPING

- Site to abide by the City of Charlotte Tree Ordinance
- Streetscape (sidewalk and planting strip) standards: Bushes planted at back of sidewalk
- Special landscape, buffer, screening treatment: 5' wood plank fencing around perimeter along with 22' class B buffer yard along residential property boundaries.
- The petitioner should reconstruct to an 8' planting strip and 6' sidewalk along property frontage, as required by chapter 14 of the city code. The proposed planting strip must be a minimum of 8' in width. The proposed sidewalk may meander around existing trees, if contained within a sidewalk-utility-easement, which is to be placed 2' from the proposed back-of-sidewalk. The planting strip must be installed between the existing back of curb and proposed sidewalk. Refer to the additional design references provided below.

## 8. ENVIRONMENTAL FEATURES

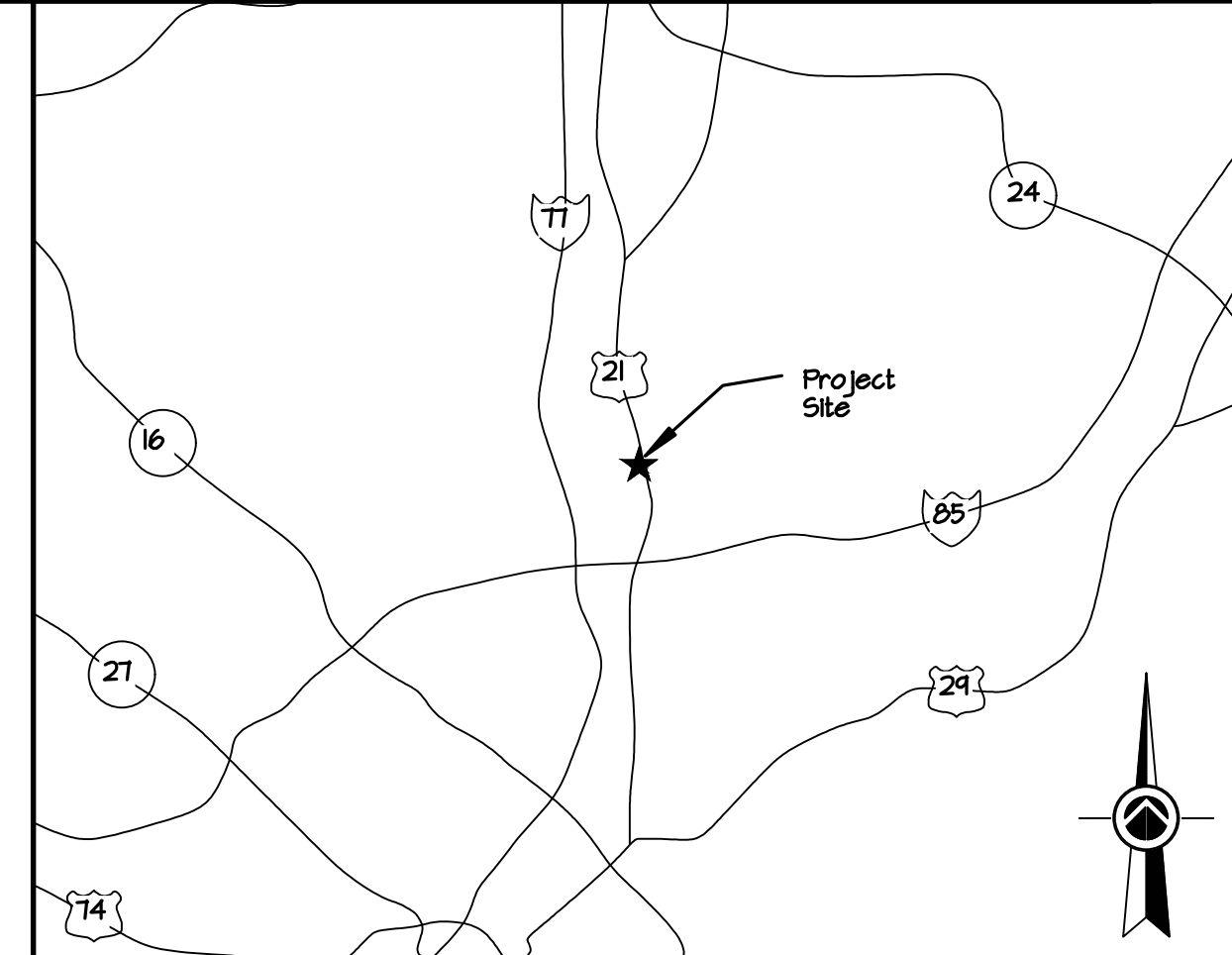
- Tree save areas: 15% of 0.18 acres = 0.12 acres required. See drawing for locations. Tree save area will need to be verified.
- The petitioner shall comply with the City of Charlotte Post Construction Stormwater Ordinance.
- Environmental provisions per Environmental General Development Policies (reference the ESDP in packet). Existing non-conforming
- Site to abide by the tree ordinance.

## 9. PARKS, GREENWAYS, AND OPEN SPACE

- Reservation/Dedication of park and/or greenway: NA
- Park and/or greenway improvements: NA
- Connections to park and/or greenway: NA
- Privately constructed open space: NA

## 10. FIRE PROTECTION

- Fire lane treatment: See drawing. 23' corridor throughout site entirely.



## VICINITY MAP

NO SCALE

## REZONING NOTES CONT'D:

- Signage: Sign limitations - size, type, location if different from ordinance requirements. Signage to remain building mounted

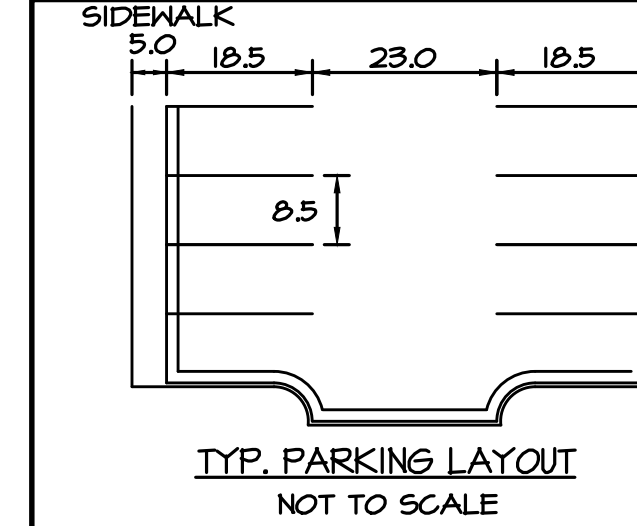
- Lighting: Limitations on type or location of lighting: Building mounted security lighting only. Location and height of special lighting, such as pedestrian scale lighting: NA

## 13. PHASING

- Development phasing by use, area and/or square footage and trigger for each phase: Single Phase Addition to Existing Building.

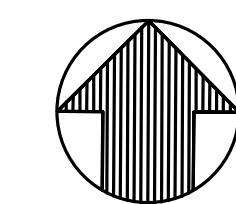
## 14. OTHER

- Indicate if a request for right-of-way abandonment or a variance has been submitted for the subject property. Such request may need approval prior to a City Council vote on the rezoning: NA
- Property corner tie points for mapping: Statesville Road and Cindy Lane
- Public facilities/sites to be provided: NA
- Provision of public art: NA
- Underground utilities: Water & Sewer Tie to existing.
- Other conditions not previously listed: NA

TYP. PARKING LAYOUT  
NOT TO SCALE

## LEGEND

EXISTING	PROPOSED	
		PROPERTY LINE
		ZONING ORDINANCE SETBACK LINE
		24' CURB & GUTTER
		EXPOSED CONCRETE
		6' + 2' ASPHALT PAVING
		8' + 2' + 1' ASPHALT PAVING
		GENERAL PLAN NOTES
		10' CONTOUR
		2' CONTOUR
		SPOT ELEVATION
		WOODS LINE
		CHAIN LINK FENCE
		TEMPORARY SEDIMENT FENCE
		*CURLX* BLANKET OR EQUAL
		RIP RAP EROSION PROTECTION W/ FILTER FABRIC
		SWALE OR WATERFLOW LINE
		BERM
		STORM SEWER
		SANITARY SEWER
		WATER LINE
		GAS LINE
		TELEPHONE LINE
		UNDERGROUND ELECTRIC

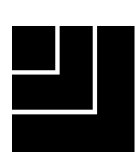


## SUPPLEMENTAL NOTES

- BUFFERS AND SETBACKS CLEARLY DELINEATED. NO SIDE SETBACKS BEYOND BOUNDARIES ADJACENT TO RESIDENTIAL PROPERTIES. TREE SAVE AREAS LABELED; TREE SURVEY WILL BE NECESSARY TO DETERMINE CREDITS AS PART OF PROJECT SCOPE.
- SIDEWALK DIMENSIONS SHOWN. SITE HAS FEWER THAN 10 SPACES PROVIDED, THEREFORE NO PLANTING STRIPS ARE REQUIRED.
- CLASS "B" BUFFER LABELED WITH ACCURATE WIDTH.
- REZONING LINE DELINEATED. PID 0415106 IS TO BE REZONED AS B-2 (CD).
- BUILDING ENTRANCE SHOWN; SIDEWALK SHOWN.
- SEE NOTE 4.
- THERE WILL BE NO PARKING WITHIN 20' SETBACK.
- EXISTING LOT IS NOT BEING REZONED; SEE NOTE 4.
- PROPOSED USE IS AS DEFINED, WITH ALL OTHER USES EXCLUDED. USES SHALL BE FOR WAREHOUSING, WHOLESALE, AND PARTS REMANUFACTURING/RECONDITIONING.
- PARKING SHOWN IS BASED UPON THE PROPOSED USE, REVISED ACCORDINGLY.
- SEE NOTE 4.
- CANOPY CLEARLY DEFINED; COMMITMENT TO 20% CLEAR WINDOWS DECLARED.
- WOOD-PLANK FENCING SHOWN AROUND PROPERTY PERIMETER; 5' IN HEIGHT.

CINDY LANE

LANDMARK

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p.336.784.2000 | www.landmarkbuilders.comPROPOSED BUILDING FOR  
**CAROLINA POWERTRAIN**  
4701 STATESVILLE RD CHARLOTTE, NC 28269  
MECKLENBURG COUNTYPRELIMINARY PLAN - NOT FOR FIELD  
USE  
CONDITIONAL REZONING SITE PLAN

DATE: 04/12/21

FILE: M10121

DRAWN BY: RST

REVISED:

JOB NO: 00000000

SHEET:

OF: RZ-1

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## **Petition 2017-118 by Phillips Investment Properties, LLC**

### **To Approve:**

This petition is found to be inconsistent with the *Northeast District Plan* (1996) based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to 4 dwelling units per acre.

However, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- This petition proposes a warehouse addition and nine additional parking spaces as an expansion of an already-existing business located on the parcel directly below this site.
- This site had been used as overflow parking for the adjacent auto parts business, but after the widening of Statesville Road the parking lot did not meet zoning requirements in its current form. This petition will formalize the parking spaces and bring the site up to current zoning code.
- The site will add a 22-foot class B buffer and tree save area between the site and the surrounding single-family homes and add a 5-foot sidewalk connecting the sidewalk on Statesville Road to the new warehouse addition and parking lot.
- The existing auto parts business on the adjacent site and the parking lot was recognized by the *Northeast District Plan* (1996) even though the plan recommends single family residential uses for this site, and the site use is currently not out of character with the commercial sites across the street.
- Adding a parking lot and warehouse space along with appropriate buffers will make the site safer for the surrounding residents and for pedestrians.

The approval of this petition will revise the adopted future land use as specified by the *Northeast District Plan*, from Single-family Residential up to 4 DUA to General Business for the site.

### **To Deny:**

This petition is found to be inconsistent with the *Northeast District Plan* (1996) based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to 4 dwelling units per acre.

Therefore, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**





**Agenda Date:** 6/1/2021

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**Agenda #:** 6. **File #:** 15-15822 **Type:** Zoning Item

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## **Rezoning Petition: 2020-192 by White Point Partners**

**Location:** Approximately 3.50 acres located along the east side of Camden Road, north of East Boulevard, and west of South Boulevard. (Council District 3 - Watlington)

**Current Zoning:** TOD-UC (transit-oriented development - urban center)

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

**Public Hearing Held:** May 17, 2021 - Item #26

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Site Plan  
Statement of Consistency

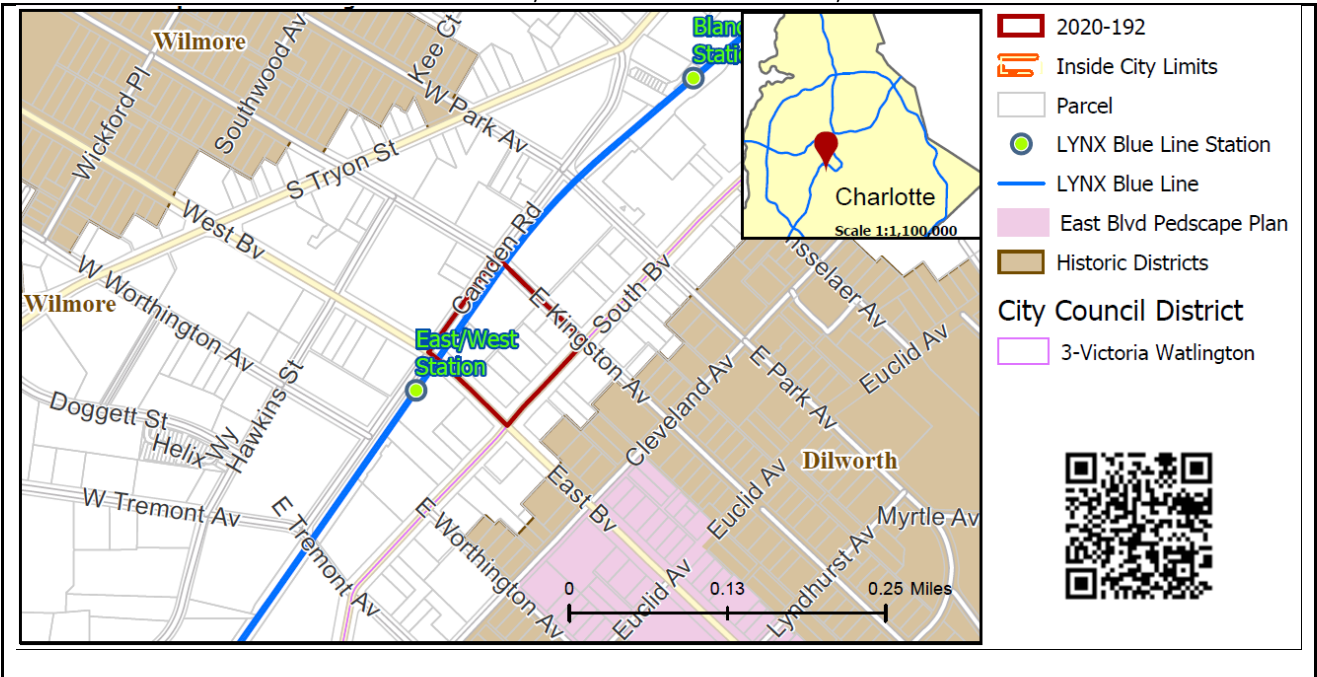
## REQUEST

Current Zoning: TOD-UC (transit-oriented development-urban center)

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

## LOCATION

Approximately 3.50 acres located along the east side of Camden Road, north of East Boulevard, and west of South Boulevard.



## SUMMARY OF PETITION

The petition proposes to rezone to a MUDD district that incorporates the TOD-UC design standards while proposing to preserve the existing Dilworth Artisan building and provide an internally-located drive-through accessory use on the site for an existing Walgreens on the site.

## PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE COMMUNITY MEETING

WP Kingston LLC  
White Point Partners  
Collin Brown and Brittany Lins/Alexander Ricks

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 4

## STAFF RECOMMENDATION

Staff recommends approval of this petition.

### Plan Consistency

The petition is **inconsistent** with the *South End Transit Station Area Plan* recommendation for transit-oriented development.

### Rationale for Recommendation

- The adopted plan recommends transit-oriented development for the entire rezoning site and the proposed conditions of the MUDD district incorporate TOD standards that would implement the goals of the plan.
- The TOD-UC standards will be applied to the rezoning site.

- The TOD-TR standards will be applied to the existing pharmacy with accessory drive through on a portion of the site. The accessory will be redesigned to be internal to the site.
- The subject site is within 200 feet of the East/West Light Rail Station.
- Use of TOD-UC zoning applies standards and regulations to create the desired form and intensity of transit supportive development.
- TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

## PLANNING STAFF REVIEW

### • **Proposed Request Details**

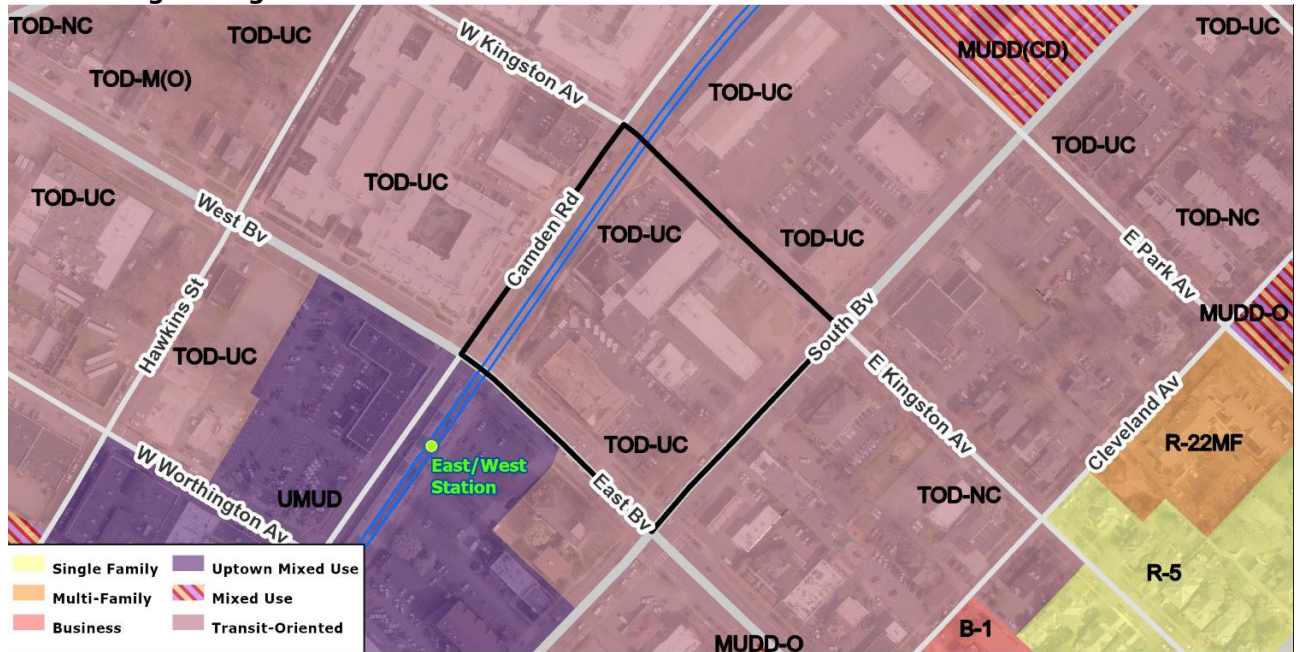
The site plan accompanying this petition contains the following provisions:

- Proposes up to 325 apartments, 365,000 square feet of office uses, and 28,000 square feet of retail.
- Notes maximum building height will not exceed TOD-UC zoning standards.
- Incorporates the TOD-UC design standards while proposing to preserve the existing Dilworth Artisan building and provide an internally located drive-through accessory use on the site.
- Illustrates location of existing building proposed to remain.
- Locates an existing 10-foot alley proposed to be abandoned.
- Illustrates a proposed development footprint.
- Notes location for green space and outdoor plaza.
- Notes that unless the rezoning plan or development standards establish more stringent standards, the regulations established under the ordinance for the TOD-UC zoning district will govern the development and use of the site subject to the specified optional provisions and additional commitments.
- Proposes the following optional provisions:
  - It is noted that the standards as contained in the ordinance under the TOD-UC zoning district (Chapter 15) shall apply to design standards for this site and be incorporated herein by reference, and the petitioner hereby opts out of the MUDD zoning district standards with the exception of the MUDD permitted uses contained in Sections 9.8502 through 9.8505 of the Ordinance. In addition, the Petitioner requests the following:
    - The petitioner shall preserve the existing building located at 118 E Kingston Avenue for adaptive reuse (unless deemed impractical or unreasonable due to structural or environmental issues as determined by a third-party engineer licensed in North Carolina). For the sake of clarity, the existing skybridge connecting the 118 E Kingston Avenue building (i.e. the preserved building) to a building located at 1708 South Boulevard is not included in this preservation commitment. The petitioner asserts that preserving the character of the existing building is a public benefit as an adaptive reuse project.
    - The petitioner requests the ability to provide a maximum of one (1) internally-located drive-through facility that shall not be visible from public streets and the Rail Trail. The drive-through facility shall also satisfy the standards contained in Section 15.8.4.c.1. of the ordinance (prescribed conditions for accessory drive-through facilities as permitted in the TOD-TR zoning district).
- Proposes the following transportation commitments:
  - When the petitioner files for permitting, if the proposed development on the site is estimated by CDOT calculations to exceed 2,500 vehicular trips per day (based on the transportation Engineer's trip generation handbook or other commonly accepted methodology at the time of permitting), or if otherwise deemed necessary by CDOT, the petitioner will conduct a traffic impact study in coordination with CDOT during the permitting phase of development, to be completed prior to the issuance of the first building certificate of occupancy for new construction buildings. The TIS shall, at a minimum, include the following elements:
    - Identify the development's transportation impacts, via traffic analysis as well as multi-modal analysis;
    - Determine off-site mitigation required (if any) based on the transportation impacts of the proposed development;
    - Identify appropriate phasing of the development; and
    - Determine the appropriate access design that should be incorporated into the site plan.
  - The petitioner will complete and submit an alley abandonment petition form to CDOT for review related to the existing alleyway through the site. The decision of this rezoning petition



does not correlate with the decision of the possible abandonment, as this decision is issued within the separate right-of-way abandonment process that is controlled by North Carolina General Statutes.

- **Existing Zoning and Land Use**

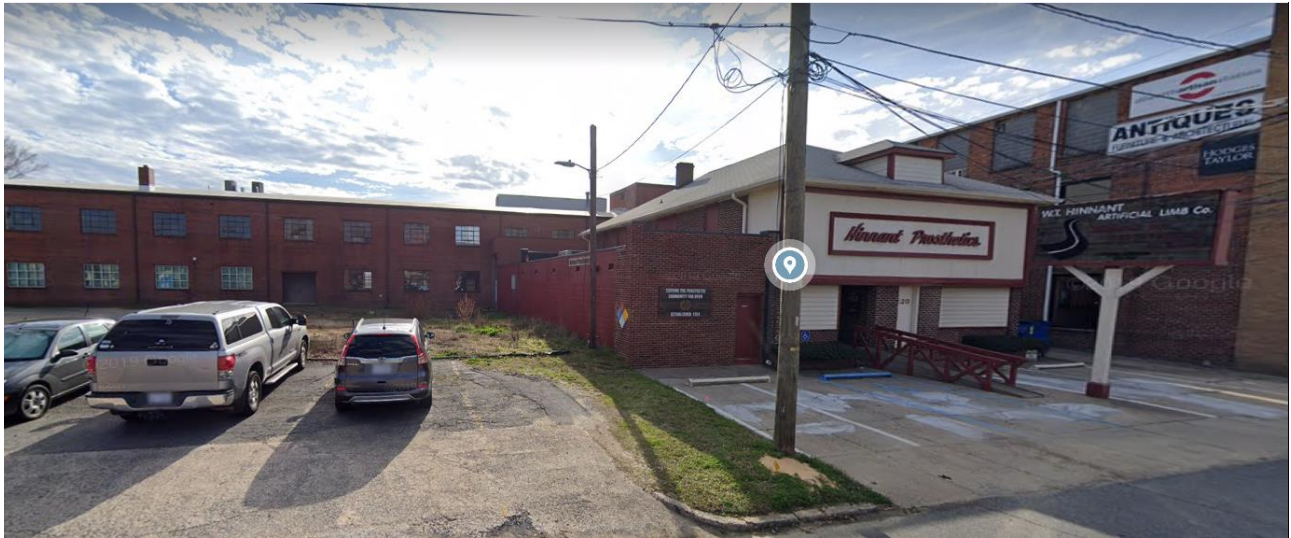


The site is developed with commercial uses on parcels immediately surrounded by a mix of residential and non-residential uses on parcels zoned TOD-UC, TOD-NC, and UMUD.

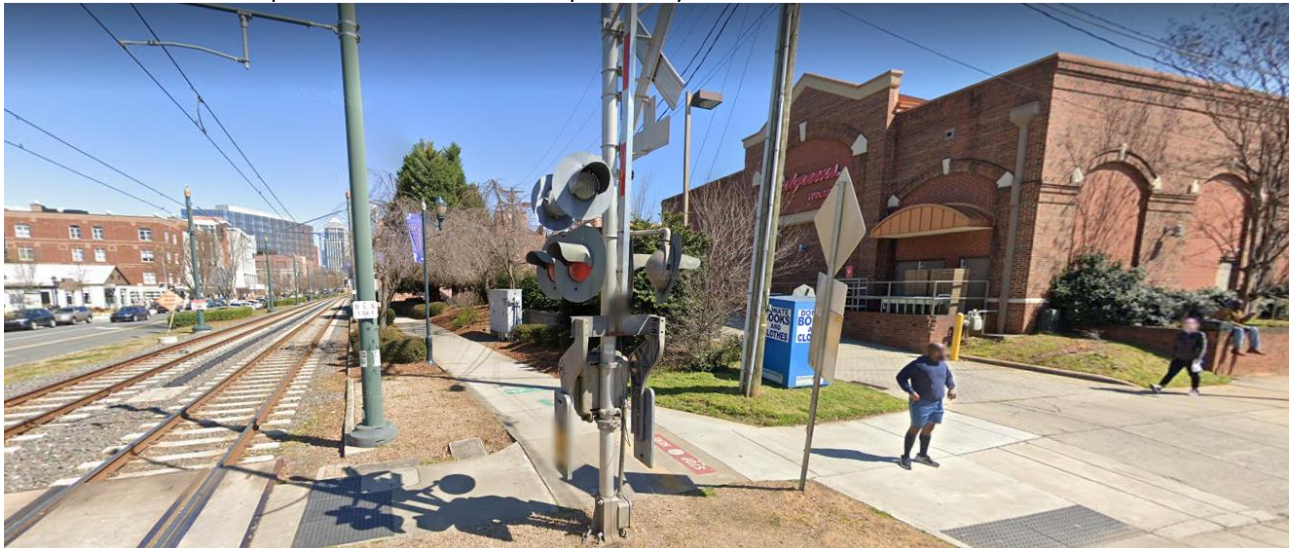


Portions of the site are developed with brick buildings constructed in 1910 and 1925 (photos above and below). The site is surrounded by a mix of residential and non-residential development on properties zoned TOD-UC.





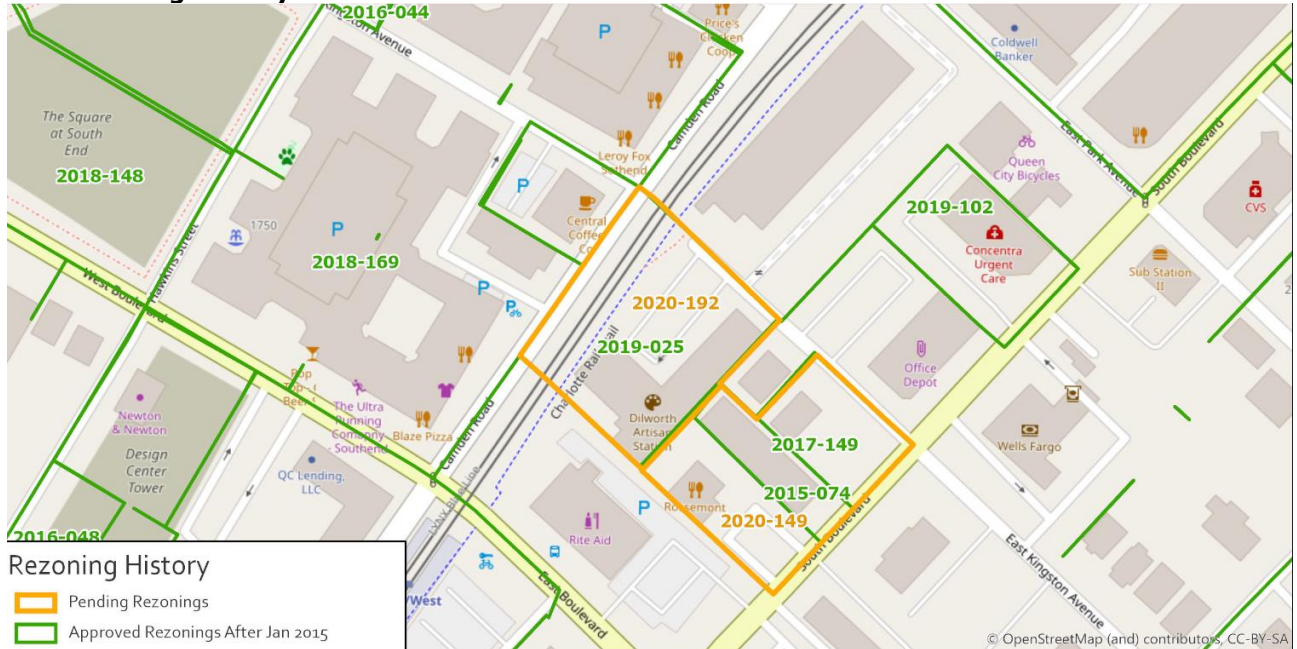
The site is also developed with an EDEE and a pharmacy.



The site lies adjacent to the LYNX Blue Line.

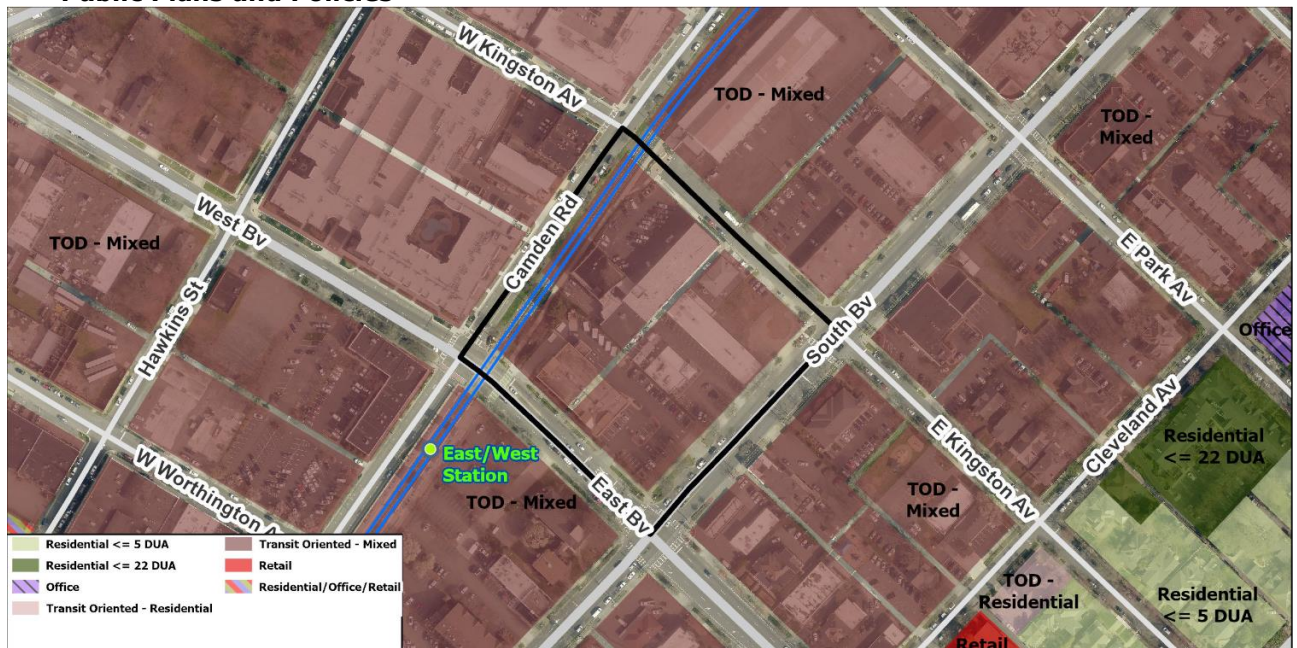


### • Rezoning History in Area



Petition Number	Summary of Petition	Status
2020-149	Rezoned 1 acre from MUDD-O and TOD-M(O) to TOD-UC.	Approved
2019-102	Rezoned 1,771.18 acres under a range of zoning districts to TOD-UC, TOD-NC, TOD-CC or TOD-TR.	Approved
2019-025	Rezoned 1.20 acres from B-1 to TOD-UC.	Approved
2018-169	Amendment to zoning ordinance to replace 3 existing transit-oriented development districts with 4 new transit oriented development districts and regulations. The amendment resulted in 3 existing conventional districts translating to the new TOD-CC district.	Approved
2018-148	Rezoned 1.84 acres from B-1 to TOD-M(O).	Approved
2017-149	Rezoned 0.529 acres from B-1 and TOD-M to TOD-M(O).	Approved
2016-048	Rezoned 0.29 acres from I-2 to TOD-M.	Approved
2016-044	Rezoned 0.9 acres from B-1 to TOD-M(O).	Approved

### • Public Plans and Policies



- The *South End Transit Station Area Plan* (2005) recommends transit-oriented development.
- **TRANSPORTATION SUMMARY**
  - The site is located on a local road (Kinston Avenue) and is located less than ¼ mile north of the LYNX East/West Blue Line Station. The Petitioner has changed their rezoning request to include seven (7) additional property parcels that include the full block bound by E. Kingston Ave, South Blvd, East Blvd, and the rail line. The rezoning changed from a request for procurement of a TOD-UC EX to MUDD-O. CDOT will review a Traffic Impact Study (TIS) during permitting since the site is currently entitled as TOD-UC and is coming through as MUDD-O only to accommodate a drive-through use. There are no outstanding CDOT items.
  - **Active Projects:**
    - Charlotte City Pedestrian and Bike project along South Blvd and East Blvd.
      - Chapter 15 – Transit Oriented Development Districts. South End Vision Plan.
      - Construction is estimated for 2018 to 2021 for completion.
      - Monica Holmes with the City of Charlotte; [Monica.Holmes@charlottenc.gov](mailto:Monica.Holmes@charlottenc.gov)
  - **Transportation Considerations**
    - No outstanding issues. See advisory comments at [www.rezoning.org](http://www.rezoning.org).
  - **Vehicle Trip Generation:**
    - Current Zoning:
      - Existing Use: 3,595 trips per day (based on 46,987 square feet of retail).
      - Entitlement: Too many uses to determine (based on existing TOD-UC zoning)
    - Proposed Zoning: Too many uses to determine (based on proposed MUDD-O zoning)

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

- **Charlotte Area Transit System:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate TBD students, while the development allowed under the proposed zoning may produce 60 students.
  - The proposed development is projected to increase the school utilization over existing condition (without mobile classroom units) as follows:
    - Dilworth (Sedgefield Campus K-2) from 68% to 73%
    - Dilworth (Latta Campus 3-5) remains at 59%
    - Sedgefield Middle from 72% to 74%
    - Myers Park High remains at 121%
  - See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 6-inch water distribution main located along E Kingston Avenue and via a 12-inch main along Camden Road. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along E Kingston Ave and via an 8-inch main along Camden Road. See advisory comments at [www.rezoning.org](http://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](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Urban Forestry:** No outstanding issues.

#### OUTSTANDING ISSUES

##### Site and Building Design

1. ~~Specify which TOD-UC regulations are to be applied to this request. As written, the request is unclear.~~ Addressed



- 
2. ~~Provide clarity regarding what MUDD regulations the optional requests are for as currently it is unclear.~~ Addressed
- 

**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

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



DEVELOPMENT DATA TABLE:

SITE AREA: +/- 3.501 ACRES  
TAX PARCEL: 123-064-09, 123-064-08, 123-064-07, 123-064-06, 123-064-05,  
123-064-04, 123-064-02, 123-064-01  
EXISTING ZONING: TOD-UC  
PROPOSED ZONING: MUDD-O  
EXISTING USE: COMMERCIAL  
PROPOSED USES: USES PERMITTED BY RIGHT AND UNDER PRESCRIBED  
CONDITIONS TOGETHER WITH ACCESSORY USES, AS ALLOWED IN  
TOD-UC ZONING DISTRICT OR AS OTHERWISE PROVIDED IN THE  
OPTIONAL PROVISIONS.  
MAXIMUM BUILDING HEIGHT: AS PERMITTED IN TOD-UC ZONING DISTRICT  
PARKING: NOT TO EXCEED TOD-UC STANDARDS

I. GENERAL PROVISIONS

- SITE DESCRIPTION.** THE APPROXIMATELY 3.501-ACRE PROPERTY IS BOUND BY EAST KINGSTON AVENUE, SOUTH BOULEVARD, EAST BOULEVARD, AND THE LYNX BLUE LINE LIGHT RAIL IN CHARLOTTE, MORE PARTICULARLY DESCRIBED AS MECKLENBURG COUNTY TAX PARCEL NUMBERS 123-064-09, 123-064-08, 123-064-07, 123-064-06, 123-064-05, 123-064-04, 123-064-02, AND 123-064-01 (THE "SITE"). THE PURPOSE OF THIS REZONING REQUEST IS TO INCORPORATE THE TOD-UC DESIGN STANDARDS WHILE ALLOWING FLEXIBILITY TO PRESERVE THE EXISTING DILWORTH ARTISAN BUILDING AND PROVIDE AN INTERNALLY-LOCATED DRIVE-THROUGH ACCESSORY USE ON THE SITE.
- UNLESS THE REZONING PLAN OR THESE DEVELOPMENT STANDARDS ESTABLISH MORE STRINGENT STANDARDS, THE REGULATIONS ESTABLISHED UNDER THE ORDINANCE FOR THE **TOD-UC ZONING DISTRICT** SHALL GOVERN THE DEVELOPMENT AND USE OF THE SITE, SUBJECT TO THE OPTIONAL PROVISIONS AND ADDITIONAL COMMITMENTS BELOW.
- FUTURE AMENDMENTS TO THE REZONING PLAN AND/OR THESE DEVELOPMENT STANDARDS MAY BE APPLIED FOR BY THE THEN OWNER(S) OF THE SITE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 6 OF THE ORDINANCE. MINOR ALTERATIONS TO THE REZONING PLAN ARE SUBJECT TO SECTION 6.207 OF THE ORDINANCE.

II. OPTIONAL PROVISIONS & ADDITIONAL COMMITMENTS

- IT IS NOTED THAT THE STANDARDS AS CONTAINED IN THE ORDINANCE UNDER THE TOD-UC ZONING DISTRICT (CHAPTER 15) SHALL APPLY TO THIS SITE AND BE INCORPORATED HEREIN BY REFERENCE, AND THE PETITIONER HEREBY OPTS OUT OF THE MUDD ZONING DISTRICT STANDARDS. IN ADDITION, THE PETITIONER REQUESTS THE FOLLOWING:
  - THE PETITIONER SHALL PRESERVE THE EXISTING BUILDING LOCATED AT 118 E KINGSTON AVENUE FOR ADAPTIVE REUSE (UNLESS DEEMED IMPRACTICAL OR UNREASONABLE DUE TO STRUCTURAL OR ENVIRONMENTAL ISSUES AS DETERMINED BY A THIRD-PARTY ENGINEER LICENSED IN NORTH CAROLINA). THE PETITIONER ASSERTS THAT PRESERVING THE CHARACTER OF THE EXISTING BUILDING IS A PUBLIC BENEFIT AS AN ADAPTIVE REUSE PROJECT.
  - THE PETITIONER REQUESTS THE ABILITY TO PROVIDE A MAXIMUM OF ONE (1) INTERNALLY-LOCATED DRIVE-THROUGH FACILITY THAT SHALL NOT BE VISIBLE FROM PUBLIC STREETS AND THE RAIL TRAIL. THE DRIVE-THROUGH FACILITY SHALL ALSO SATISFY THE STANDARDS CONTAINED IN SECTION 15.8.4.C.1. OF THE ORDINANCE (PRESCRIBED CONDITIONS FOR ACCESSORY DRIVE-THROUGH FACILITIES AS PERMITTED IN THE TOD-TR ZONING DISTRICT).

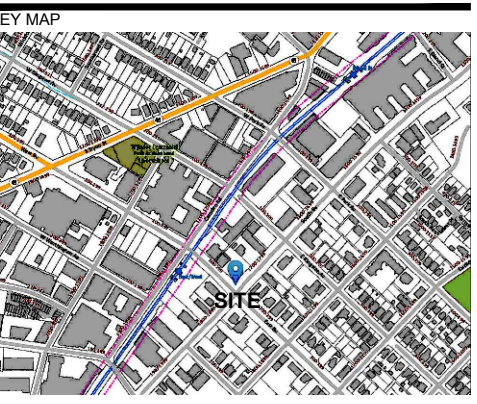
III. TRANSPORTATION

- WHEN THE PETITIONER FILES FOR PERMITTING, IF THE PROPOSED DEVELOPMENT ON THE SITE IS ESTIMATED BY CDOT CALCULATIONS TO EXCEED 2,500 VEHICULAR TRIPS PER DAY (BASED ON THE TRANSPORTATION ENGINEER'S *TRIP GENERATION HANDBOOK* OR OTHER COMMONLY ACCEPTED METHODOLOGY AT THE TIME OF PERMITTING), OR IF OTHERWISE DEEMED NECESSARY BY CDOT, THE PETITIONER WILL CONDUCT A TRAFFIC IMPACT STUDY IN COORDINATION WITH CDOT DURING THE PERMITTING PHASE OF DEVELOPMENT, TO BE COMPLETED PRIOR TO THE ISSUANCE OF THE FIRST BUILDING CERTIFICATE OF OCCUPANCY FOR NEW CONSTRUCTION BUILDINGS.

The TIS shall, at a minimum, include the following elements:

  - Identify the development's transportation impacts, via traffic analysis as well as multi-modal analysis;
  - determine off-site mitigation required (if any) based on the transportation impacts of the proposed development;
  - identify appropriate phasing of the development; and
  - determine the appropriate access design that should be incorporated into the site plan.
- THE PETITIONER WILL COMPLETE AND SUBMIT AN ALLEY ABANDONMENT PETITION FORM TO CDOT FOR REVIEW RELATED TO THE EXISTING ALLEYWAY THROUGH THE SITE. THE DECISION OF THIS REZONING PETITION DOES NOT CORRELATE WITH THE DECISION OF THE POSSIBLE ABANDONMENT, AS THIS DECISION IS ISSUED WITHIN THE SEPARATE RIGHT-OF-WAY ABANDONMENT PROCESS THAT IS CONTROLLED BY NORTH CAROLINA GENERAL STATUTES.

REZONING PETITION  
#2020-192



PRELIMINARY  
-FOR REVIEW ONLY-

THESE DOCUMENTS ARE FOR DESIGN REVIEW ONLY AND NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSE. THEY ARE PREPARED BY, OR UNDER THE SUPERVISION OF:

XXXXX XXXXXXXX #0000 2/10/21  
REGISTERED ENGINEER STATE OF NORTH CAROLINA

NOT FOR  
CONSTRUCTION

1700 SOUTH BLVD  
REZONING  
ABW SITE

WHITE POINT  
4064 COLONY ROAD  
CHARLOTTE, NC

LANDDESIGN PROJ# 1020218

REVISION / ISSUANCE

NO.	DESCRIPTION	DATE
1	1ST REZONING SUBMITTAL	02.09.2021

DESIGNED BY:  
DRAWN BY:  
CHECKED BY:

SCALE: NORTH

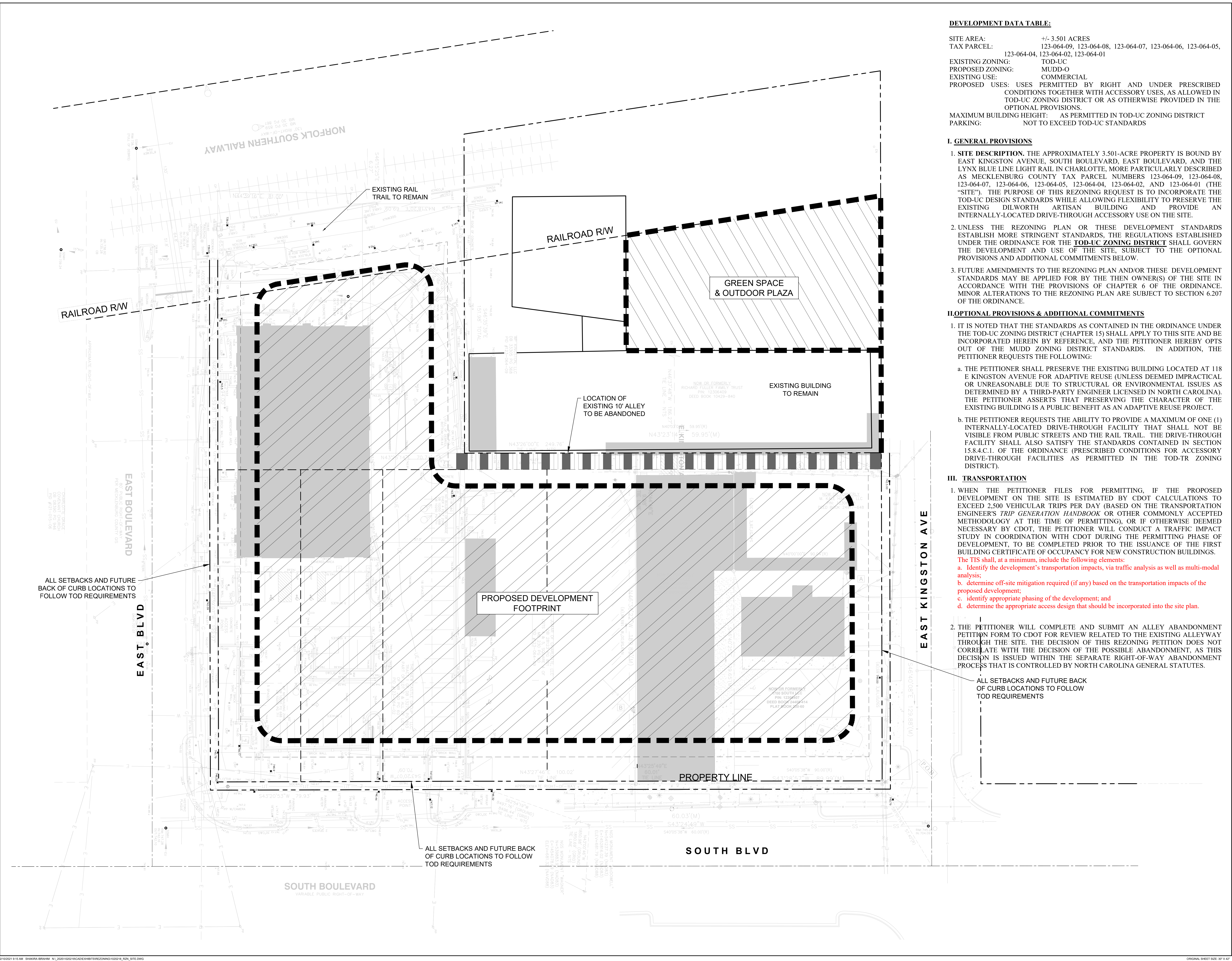
VERT: 1" = 20'  
HORZ: 1" = 20'

SHEET TITLE

TECHNICAL DATA SHEET

SHEET NUMBER

RZ-1.0





## Petition 2020-192 by White Point Partners

### To Approve:

This petition is found to be **inconsistent** with the *South End Transit Station Area Plan*, based on the information from the staff analysis and the public hearing, and because:

- The *South End Transit Station Area Plan* recommends transit-oriented development.

(However, we find) this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The adopted plan recommends transit-oriented development for the entire rezoning site and the proposed conditions of the MUDD district incorporate TOD standards that would implement the goals of the plan.
- The TOD-UC standards will be applied to the rezoning site.
- The TOD-TR standards will be applied to the existing pharmacy with accessory drive through on a portion of the site. The accessory will be redesigned to be internal to the site.
- The subject site is within 200 feet of the East/West Light Rail Station.
- Use of TOD-UC zoning applies standards and regulations to create the desired form and intensity of transit supportive development.
- TOD standards include requirements for appropriate streetscape treatment, building setbacks, street-facing building walls, entrances, and screening.

### To Deny:

This petition is found to be **inconsistent** with the *South End Transit Station Area Plan*, based on the information from the staff analysis and the public hearing, and because:

- The *South End Transit Station Area Plan* recommends transit-oriented development.

(Therefore, we find) this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

### Approve or Deny

### Maker:

2<sup>ND</sup>:

### Vote:

### Dissenting:

### Recused:



**Agenda Date:** 6/1/2021

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**Agenda #:** 7. **File #:** 15-15823 **Type:** Zoning Item

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## **Rezoning Petition: 2020-197 by The Paces Foundation, Inc.**

**Location:** Approximately 4.54 acres located along the south side of Elmin Street, on the north side of West Boulevard, east of Old Steele Creek Road. (Council District 3 - Watlington)

**Current Zoning:** R-5 (single-family residential) and R-8 (single-family residential)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #27

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

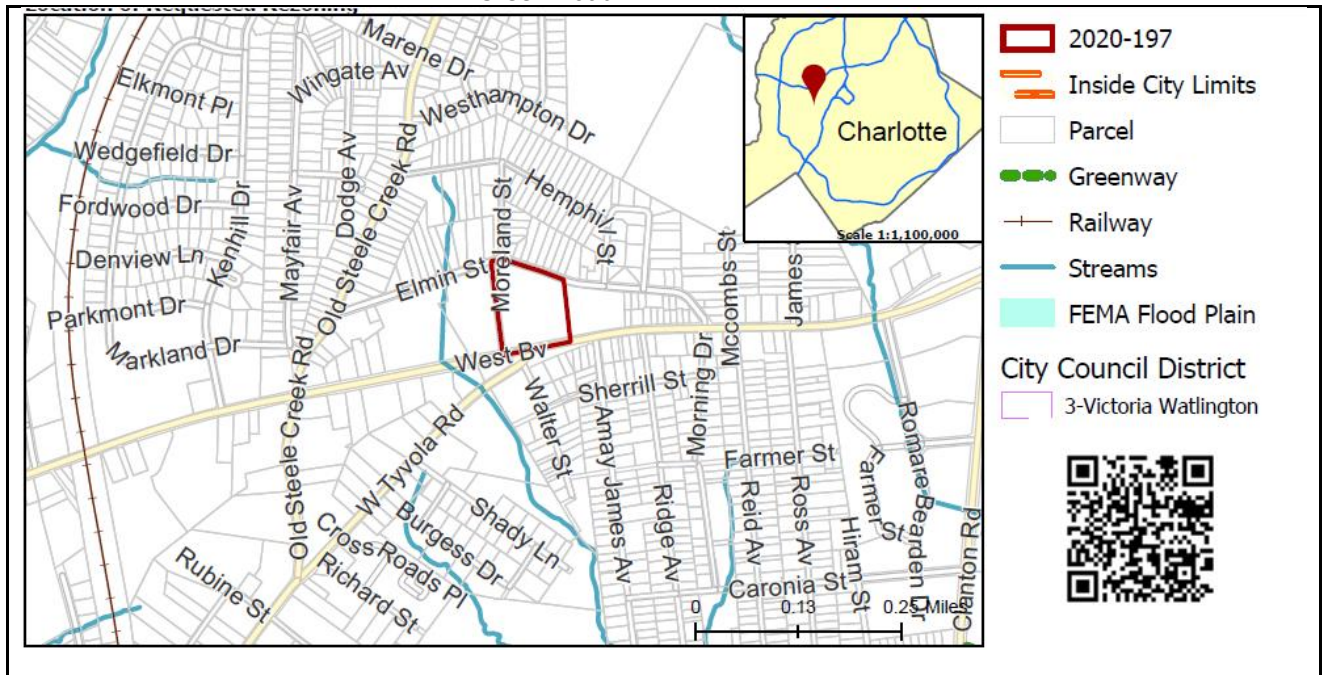
Statement of Consistency

## REQUEST

Current Zoning: R-5 (single family residential) and R-8 (single family residential)  
Proposed Zoning: UR-2(CD) (urban residential, conditional)

## LOCATION

Approximately 4.54 acres located along the south side of Elmin Street, on the north side of West Boulevard, east of Old Steele Creek Road.



## SUMMARY OF PETITION

The petition proposes to allow an age-restricted, multifamily residential development at a density of 29.74 units per acre, on a vacant parcel located between Elmin Street and West Boulevard in West Charlotte.

## PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE COMMUNITY MEETING

E&M Real Estate Management, LLC  
The Paces Foundation, Inc.  
Dujuana Keys and Keith MacVean, Moore & Van Allen

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 16

## STAFF RECOMMENDATION

Staff recommends approval of this petition.

### Plan Consistency

The petition is **inconsistent** with the *Central District Plan* (1993) recommendation for single family residential up to 5 units per acre and single family residential up to 8 units per acre, but **consistent** with the *General Development Policies* recommendation for over 17 dwelling units per acre.

### Rationale for Recommendation

- The petition meets the *General Development Policies* locational criteria for consideration of over 17 dwelling units per acre.
- The request supports a desired mix of housing types in the area.

- Directly east of the site is a religious institution, and west are a mix of institutional, office, residential, and retail uses.
- The project commits to streetscape improvements along West Boulevard.
- The request commits to several transportation improvements, including provision of an 8-foot sidewalk adjacent to the unopened right-of-way located along the western property line. Pedestrian scale lighting will also be provided along this sidewalk.
- The petition proposes a new ADA compliant bus waiting pad per along West Boulevard for outbound bus stop #34580.
- The petition commits to installation of evergreen shrubs to enhance screening of the parking and refuse areas from existing residential and institutional uses along Elmin Street.
- The site plan clearly identifies proposed open space amenity area and urban open space area with associated conditional notes committing to their improvements.

The approval of this petition will revise the adopted future land use as specified by the Central District Plan, from current recommended single family residential up to 5 units per acre and single family residential up to 8 units per acre to new recommended residential over 17 units per acre for the site.

## PLANNING STAFF REVIEW

### • **Proposed Request Details**

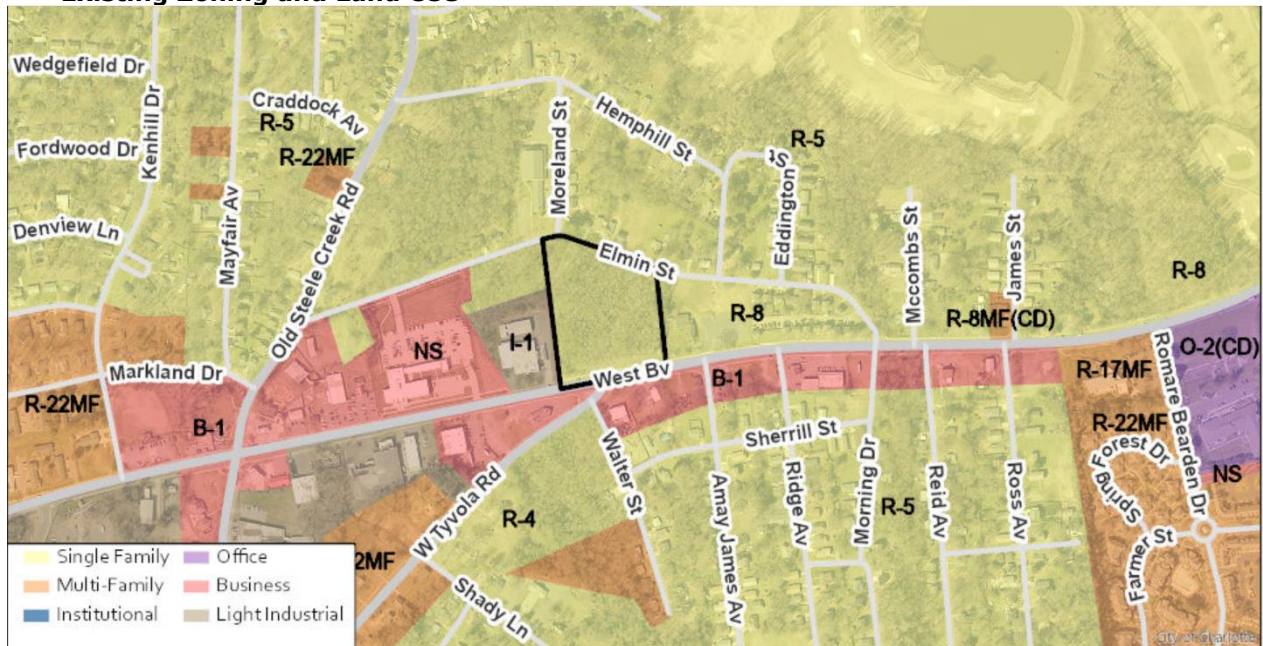
The site plan accompanying this petition contains the following provisions:

- Up to 125 age-restricted multi-family residential dwelling units in 1 building (29.74 units per acre).
- Limits building height to 60 feet.
- Proposes a workforce housing program to ensure that the proposed residential dwelling units constructed on the Site are reasonably priced for persons earning less than the median income for the area ("Affordable Units"). Ensures that all the proposed affordable Units constructed on the Site, for a period of not less than 20 years, maintain monthly rents that are income restricted for households earning up to 80% of area median income.
- Provides a 24-foot building and parking setback along West Boulevard from back of future curb.
- Provides a 20-foot building and parking setback along Elmin Street from back of future curb.
- Provides a 16-foot setback along the existing unopened right-of-way located along the western property boundary.
- Proposes access via West Boulevard and Elmin Street (gated).
- Illustrates potential tree save areas along Elmin Street.
- Proposes a staggered double row of evergreen screen shrubs along a portion of Elmin Street to screen proposed parking areas from the right-of-way and existing residential and institutional uses across the street.
- Illustrates proposed large evergreen shrubs, a 6-foot masonry screening wall with gates to screen the proposed refuse area.
- Proposes the following transportation improvements:
  - Improves West Boulevard with a 16-foot planting strip and an 8-foot sidewalk. The proposed sidewalk will extend across the unopened right-of-way.
  - Provides an 8-foot planting strip and an 8-foot sidewalk along Elmin Street. The proposed sidewalk will extend half-way across the unopened right-of-way. Additional improvements along Elmin Street will be provided as required by the Chapter 19 of the City Code. Elmin will be improved to meet a residential medium cross-section.
  - Provides an 8-foot sidewalk adjacent to the unopened right-of-way located along the western property line. Pedestrian scale lighting will also be provided along this sidewalk. The back of the proposed sidewalk will be located 29 feet from the center line of the unopened right-of-way. A sidewalk and utility easement will be provided for the portion of the sidewalk located outside of the right-of-way.
  - Constructs a curb ramp at the intersection of West Boulevard and the unopened street as generally depicted on the Rezoning Plan.
  - Constructs an accessible curb ramp on the south side of Elmin Street across from the intersection of Moreland Street as generally depicted on the Rezoning Plan. The Petitioner

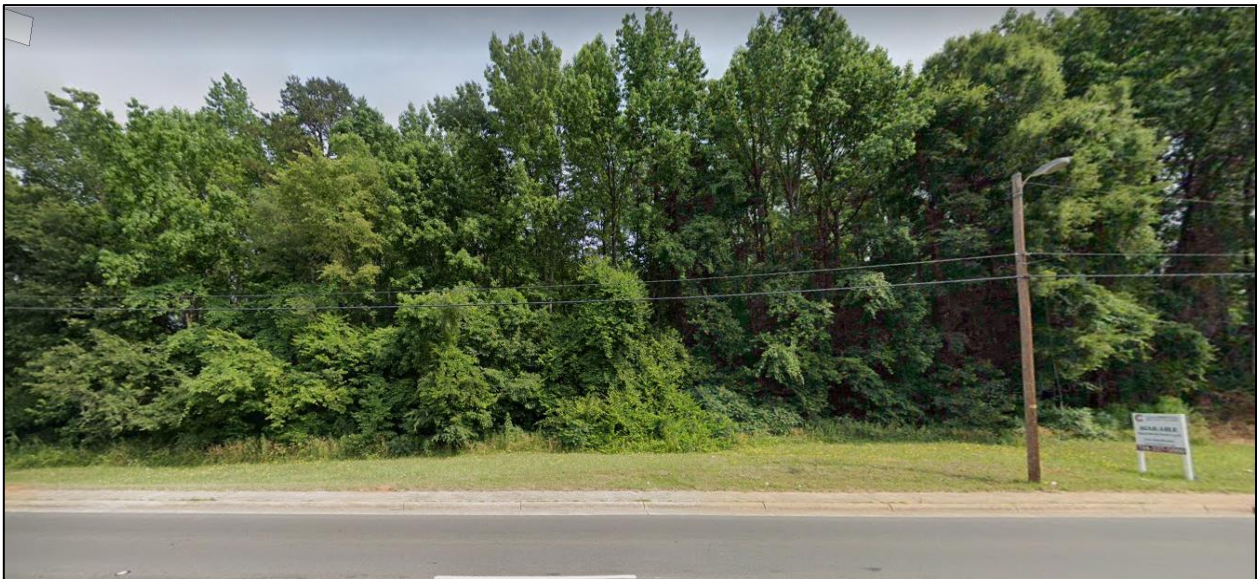
- will also bring the existing accessible curb ramp located on the north side of Elmin Street at the intersection of and Moreland Street to City Standards.
- Dedicates and conveys to CDOT 54 feet of right-of-way from the center line of West Boulevard, as generally depicted on the Rezoning Plan.
  - Dedicates additional right-of-way along Elmin Street to accommodate a residential medium cross-section. A sidewalk easement may be provided to reduce the amount of right-of-way that is dedicated.
  - Dedicates 1-foot of additional right-of-way along the unopened street located along the western property boundary for a total of 21 feet from the center line.
  - Constructs a new ADA compliant bus waiting pad per Land Development Standards 60.01B along West Boulevard for outbound bus stop # 34580. The final location of the pad will be coordinated with CATS during the permitting process.
  - Proposes the following design guidelines:
    - Proposes building materials used will be a combination of portions of some of the following: brick, stone, precast stone, precast concrete, synthetic stone, cementitious fiber board, stucco, EIFS, decorative block and/or wood. Vinyl or aluminum as a building material may only be used on windows, soffits and on handrails/railings.
    - Prohibits vinyl siding (but not vinyl handrails, windows or door trim).
    - Prohibits concrete masonry units not architecturally finished.
    - All principal and accessory buildings abutting West Boulevard, Elmin Street and the unopened right-of-way shall comprise a minimum of 20% of that building's entire façade facing such network street using brick, natural stone (or its synthetic equivalent), stucco or other material approved by the Planning Staff.
    - Prohibited exterior building materials are vinyl siding (but not vinyl hand rails, windows or door trim) and concrete masonry units not architecturally finished.
    - Notes buildings exceeding 135 feet in length along an existing or proposed right-of-way shall include modulations of the building massing/facade plane (such as recesses, projections, and architectural details). Modulations shall be a minimum of 10 feet wide and shall project or recess a minimum of 4 feet extending up and down through the building façade.
    - Building elevations shall be designed with vertical bays or articulated architectural façade features which may include but not be limited to a combination of exterior wall offsets, projections, recesses, pilasters, banding and change in materials or colors.
    - Buildings shall be designed with a recognizable architectural base on all facades facing West Boulevard. Such base may be executed through use of Preferred Exterior Building Materials or articulated architectural façade features and color changes.
    - Building elevations facing West Boulevard, Elmin Street, and the unopened right-of-way shall not have expanses of blank walls greater than 20 feet in all directions and architectural features such as but to limited to banding, medallions or design features or materials will be provided to avoid a sterile, unarticulated blank treatment of such walls.
  - Notes improved open space areas will be provided as generally depicted on the Rezoning Plan. The proposed open space amenity areas will be improved with landscaping, seating areas, hardscape elements and shade structures as applicable and appropriate to the proposed amenity area. The improved open space area will contain a minimum of 8,000 square feet.
  - The Petitioner will design the storm water and water quality structure proposed along West Boulevard so that attractively landscaped and screened from West Boulevard. Flowering small-maturing trees are illustrated between the potential BMP area and proposed sidewalk along West Boulevard.
  - Notes an improved urban open space area will also be provided along West Boulevard. This open space area will be improved with a seating area, landscaping, hardscape elements, and lighting.



- Existing Zoning and Land Use



The site is currently vacant and is surrounded by a mix of single family and multi-family residential developments, institutional, office, and retail uses and vacant land on parcels in various zoning districts.



The rezoning site is vacant.





East is a religious institution.

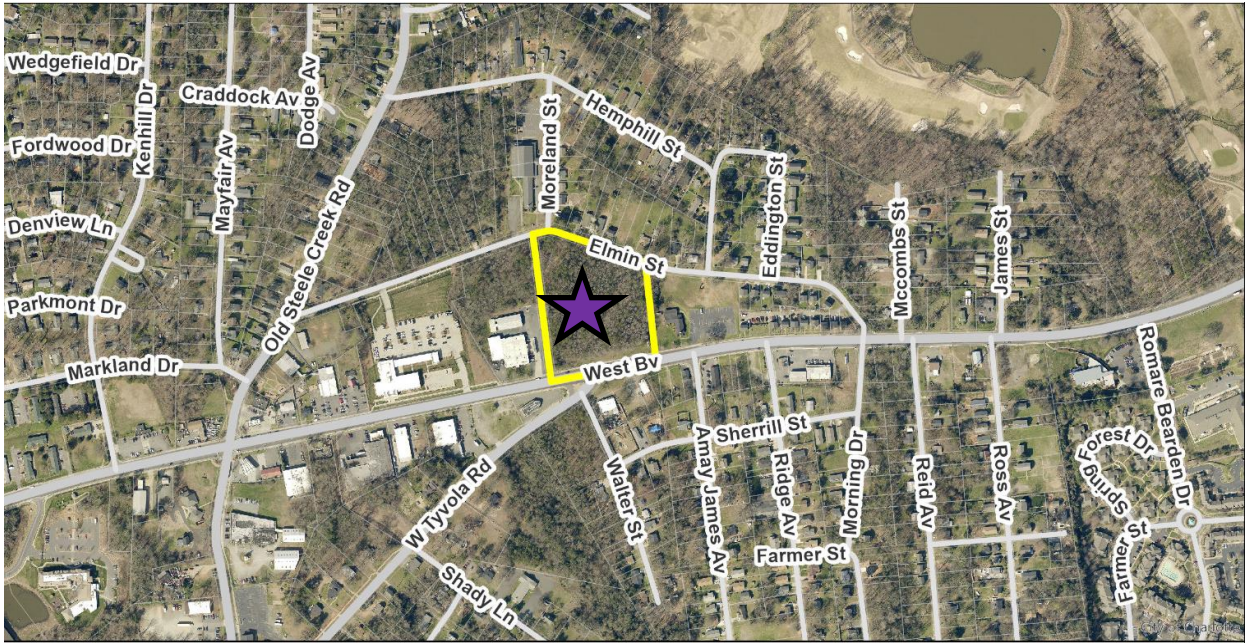


West, along West Boulevard are a mix of residential and nonresidential uses.



Along Elmin Street are single family homes and a religious institution.





The site (denoted by purple star) is surrounded by a mix of residential and non-residential uses.

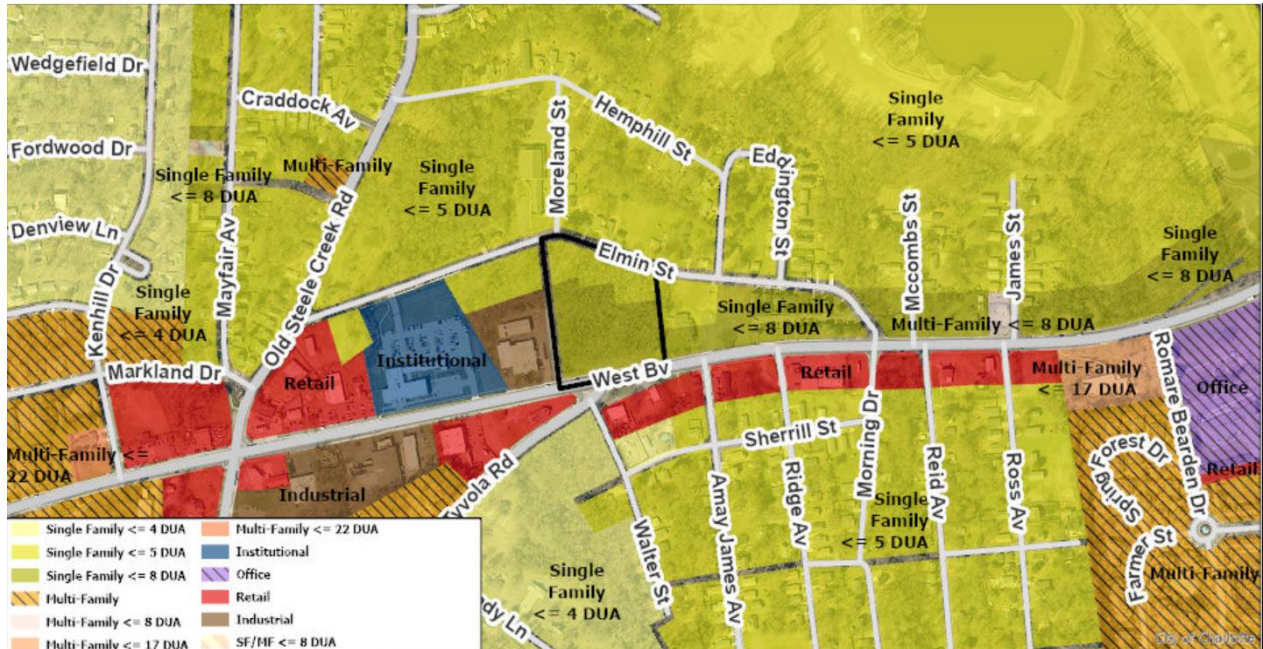
- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2019-121	Rezoned 1.15 acres from B-1(CD) to B-1.	Approved



- **Public Plans and Policies**



- The *Central District Plan* recommends single family residential up to 5 units per acre for a portion of the site, and single family residential up to 8 units per acre for the remainder of the parcel.
- The *General Development Policies* (GDP) provides policy guidance for evaluating proposed residential densities greater than four units per acre. The petition meets the *General Development Policies* locational criteria for consideration of over 17 dwelling units per acre as illustrated in the table below.

Assessment Criteria	Density Category – Over 17 dua
Meeting with Staff	1
Sewer and Water Availability	2
Land Use Accessibility	3
Connectivity Analysis	4
Road Network Evaluation	1
Design Guidelines	4
Other Opportunities or Constraints	NA
<b>Minimum Points Needed: 14</b>	<b>Total Points: 15</b>

- **TRANSPORTATION SUMMARY**

- The site is located on West Boulevard, a State-maintained major thoroughfare, and Elmin Street, a City-maintained local road, at the intersection of West Boulevard and Tyvola Road. The proposed project is requesting to change the site's rezoning from R-5/R-8 to Urban Residential-2 (UR-2). In accordance with the City's Ordinances and WALKS Policy, the petitioner has committed to construct portion of a pedestrian network, in the form of an 8-foot planting strip and 8-foot sidewalk, along Elmin Street, West Boulevard, and the paper right-of-way along the western property line. This new pedestrian network will complement the bicycle and pedestrian infrastructure constructed as a part of the West Boulevard Corridor Implementation CIP Project. Lastly, the Petitioner has agreed to improve the CATS Bus Stop in front of the site on West Boulevard. There are no outstanding CDOT items.
- **Active Projects Near the Site:**
  - West Boulevard Corridor Implementation, CIP Project ID# PMES181547
    - Construct numerous bicycle and pedestrian improvements along West Boulevard from Camden Road to Billy Graham Parkway.
      - New Pedestrian Hybrid Beacon between Morning Drive and Ridge Avenue
        - Ramp and flatwork construction starting 1<sup>st</sup> quarter 2021
        - Mast Arm 2<sup>nd</sup> quarter 2021
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**

Current Zoning:

Existing Use: Vacant

Entitlement: 375 trips per day (based on 7 homes at R-5; 24 homes at R-8).

Proposed Zoning: 480 trips per day (based on 125 senior multi-family).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No comments received.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **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 Elmin Street. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along Elmin Street. See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Engineering and Property Management:**
  - **Arborist:** No outstanding issues.
  - **Erosion Control:** No outstanding issues.
  - **Land Development:** No outstanding issues.
  - **Storm Water Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
  - **Urban Forestry:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.

**OUTSTANDING ISSUES**

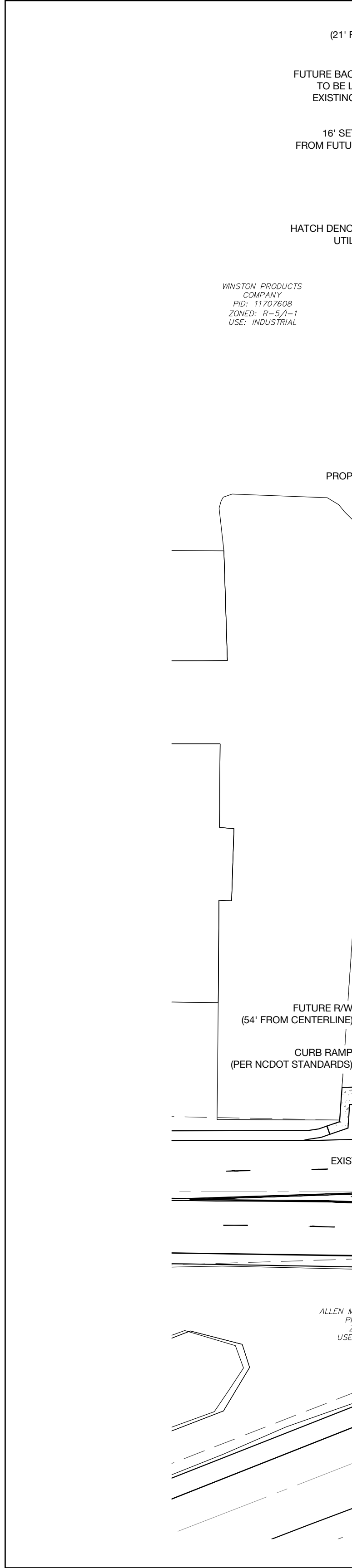
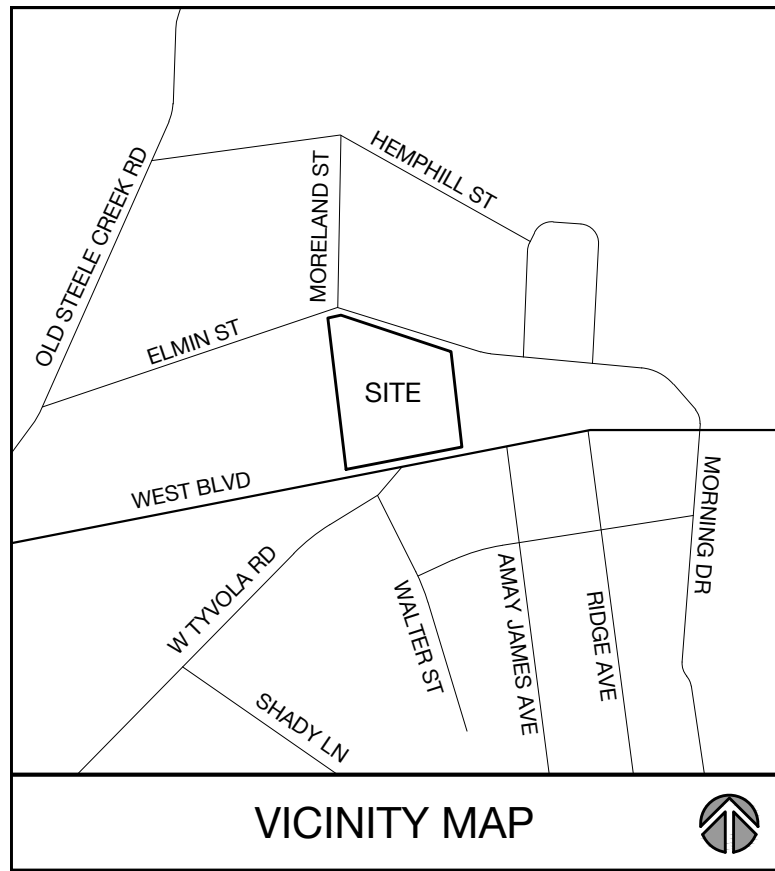
- None

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**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

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





Site Development Data:

- Acreage: ±4.54
- Tax Parcel #: 117-074-01
- Existing Zoning: R-5 & R-8
- Proposed Zoning: UR-2(CD)
- Existing Uses: Vacant
- Proposed Uses: Up to 125 age-restricted (as defined below) multi-family residential dwelling units together with accessory uses, as allowed in the UR-2 zoning district.
- Density: Based on 4.54 acres and a total of 125 units calculated density is 29.74 du/ac.
- Maximum Building Height: Not to exceed 60 feet, building height increases over 40 feet will be in accordance with Section 9.406(2)(A). Height will be measured as defined by the Ordinance.
- Parking: As required by the Ordinance will be provided.

- General Provisions:
  - Site Location. These Development Standards form a part of the Rezoning Plan associated with the Rezoning Petition filed by The Paces Foundation, Inc. ("Petitioner") to accommodate the development of an age-restricted residential community on approximately 4.54-acre site generally located at the north of the intersection of West Boulevard and West Tivola Road (the "Site").
  - Zoning Districts/Ordinance. Development of the Site will be governed by the Rezoning Plan as well as the applicable provisions of the City of Charlotte Zoning Ordinance (the "Ordinance"). Unless the Rezoning Plan establishes more stringent standards the regulations established under the Ordinance for the UR-2 zoning classification shall govern.
  - Graphics and Alterations. The schematic depictions of the uses, parking areas, sidewalks, structures and buildings, building elevations, driveways, streets and other development matters and site elements (collectively the "Development/Site Elements") set forth on the Rezoning Plan should be reviewed in conjunction with the provisions of these Development Standards. The layout, locations, sizes and formulations of the Development/Site Elements depicted on the Rezoning Plan are graphic representations of the Development/Site elements proposed. Changes to the Rezoning Plan not anticipated by the Rezoning Plan will be reviewed and approved as allowed by Section 6.207 of the Ordinance.

Since the project has not undergone the design development and construction phases, it is intended that this Rezoning Plan provide for flexibility in allowing some alterations or modifications from the graphic representations of the Development/Site Elements. Therefore, there may be instances where minor modifications will be allowed without requiring the Administrative Amendment Process per Section 6.207 of the Ordinance. These instances would include changes to graphics if they are:

- minor and don't materially change the overall design intent depicted on the Rezoning Plan.
- The Planning Director will determine if such minor modifications are allowed per this amended process, and if it is determined that the alteration does not meet the criteria described above, the Petitioner shall then follow the Administrative Amendment Process per Section 6.207 of the Ordinance; in each instance, however, subject to the Petitioner's appeal rights set forth in the Ordinance.

- Permitted Uses & Development Area Initiation:
  - The Site may be developed with up to 125 age-restricted multi-family residential dwellings units together with accessory uses allowed in the UR-2 zoning district as generally depicted on the Rezoning Plan.
  - Parking and vehicular circulation will not be permitted between the building and West Boulevard as generally depicted on the Rezoning Plan. Parking and vehicular circulation will be allowed to the side of the building and may extend beyond the building line toward West Blvd., as generally depicted on the Rezoning Plan.
  - Workforce Housing: The Petitioner shall provide a workforce housing program to ensure that the proposed residential dwelling units constructed on the Site are reasonably priced for persons earning less than the median income for the area ("Affordable Units"). The Petitioner shall ensure that all the proposed Affordable Units constructed on the Site, for a period of not less than 20 years, maintain monthly rents that are income restricted for households earning up to 80% of area median income.

Age-restricted or age-restricted community shall mean: a community intended and operated for regular occupancy by persons fifty-five (55) years of age or older such that 100% of the units have at least one occupant who is fifty-five (55) years of age or older; in addition, other senior based housing and services, including, without limitation, independent living, retirement care and the like are permitted as part of age-restricted housing or community, whether as principle or accessory uses.

- Access, Transportation and Improvements:
  - Access to the Site will be from West Boulevard and Elmin Street as generally depicted on the Rezoning Plan. The proposed access to Elmin Street may be gated.
  - The Petitioner will improve West Boulevard with a 16-foot planting strip and an eight (8) foot sidewalk as generally depicted on the Rezoning Petition. The proposed sidewalk will extend across the unopened right-of-way.
  - The Petitioner will provide an eight (8) foot planting strip and an eight (8) foot sidewalk along improve Elmin Street. The proposed sidewalk will extend half-way across the unopened right-of-way. Additional improvements along Elmin Street will be provided as required by the Chapter 19 of the City Code. Elmin will be improved to meet a residential medium cross-section.
  - The Petitioner will provide an eight (8) foot sidewalk adjacent to the unopened right-of-way located along the western property line. Pedestrian scale lighting will also be provided along this sidewalk. The back of the proposed sidewalk will be located 29 feet from the center line of the unopened right-of-way. A sidewalk and utility easement will be provided for the portion of the sidewalk located outside of the right-of-way.
  - The Petitioner will construct a curb ramp at the intersection of West Blvd. and the unopened street as generally depicted on the Rezoning Plan.
  - The Petitioner will construct an accessible curb ramp on the south side of Elmin Street across from the intersection of Moreland Street as generally depicted on the Rezoning Plan. The Petitioner will also bring the existing accessible curb ramp located on the north side of Elmin at the intersection of West Boulevard and Moreland Street to City Standards.
  - The placement and configuration of the vehicular access point is subject to minor modifications required to accommodate final site development and construction plans and to any adjustments required for approval by the CDOT and NCDOT in accordance with applicable published standards.
  - The alignment of the internal vehicular circulation and driveways may be modified by the Petitioner to accommodate changes in traffic patterns, parking layouts and any adjustments required for approval by CDOT in accordance with published standards.
  - The Petitioner will dedicate and convey to CDOT 54 feet of right-of-way from the center line of West Blvd. as generally depicted on the Rezoning Plan.
  - The Petitioner will dedicate additional r/w along Elmin Street to accommodate a residential medium cross-section. A sidewalk easement may be provided to reduce the amount of r/w that is dedicated.
  - The Petitioner will dedicate one (1) foot of additional right-of-way along the unopened street located along the western property boundary for a total of 21 feet from the center line.
  - The Petitioner will construct required roadway improvements and provide any required sidewalk and utility easements needed for these improvements prior to the issuance of the first certificate of occupancy, subject to the Petitioner's ability to request that CDOT allow a bond to be post for any roadway improvements not finalized at the time of the issuance of the certificate of occupancy, as allowed by City regulations.
  - The Petitioner will dedicate via fee simple conveyance any required right-of-way indicated on the Rezoning Plan as right-of-way to be dedicated, the additional right-of-way will be dedicated prior to the issuance of the first certificate of occupancy. The Petitioner will provide a permanent sidewalk easement for any of the proposed sidewalks located along the public streets located outside of the right-of-way. The permanent sidewalk easement will be located a minimum of two (2) feet behind the sidewalk where feasible.

- Streetscape, Buffers, Yards, Open Space and Landscaping:
  - A twenty-four (24) foot building and parking setback as measured from the future back of curb will be provided along West Boulevard as generally depicted on the Rezoning Plan.
  - A 20-foot building and parking setback as measured from the future back of curb will be provided along Elmin Street.
  - A 16-foot setback as measured from the future back of curb will be provided along the existing unopened right-of-way located along the western property boundary as generally depicted on the Rezoning Plan.
  - Side and rear yards will be provided as required by the Ordinance.

- Architectural Standards, General Design Guidelines:
  - The building materials used on the principal buildings constructed on Site will be a combination of portions of some of the following: brick, stone, precast stone, precast concrete, synthetic stone, cementitious fiber board, stucco, EIFS, decorative block and/or wood. Vinyl or aluminum as a building material may only be used on windows, soffits and on handrails/railings.
  - Preferred Exterior Building Materials: All principal and accessory buildings abutting West Boulevard, Elmin Street and the unopened right-of-way shall comprise a minimum of 20% of that building's entire façade facing such network street using brick, natural stone (or its synthetic equivalent), stucco or other material approved by the Planning Staff.

- Prohibited Exterior Building Materials:
  - Vinyl siding (but not vinyl handrails, windows or door trim).
  - Concrete Masonry Units not architecturally finished.
- Building Massing and Height shall be designed to break up long monolithic building forms as follows:
  - Buildings exceeding 135 feet in length along an existing or proposed right-of-way shall include modulations of the building massing/facade plane (such as recesses, projections, and architectural details). Modulations shall be a minimum of 10 feet wide and shall project or recess a minimum of 4 feet extending up and down through the building façade.
  - Architectural Elevation Design - elevations facing public streets shall be designed to create visual interest as follows:
    - Building elevations shall be designed with vertical bays or articulated architectural façade features which may include but not be limited to a combination of exterior wall offsets, projections, recesses, pilasters, banding and change in materials or colors.
  - Buildings shall be designed with a recognizable architectural base on all facades facing West Boulevard. Such base may be executed through use of Preferred Exterior Building Materials or articulated architectural façade features and color changes.

- Building elevations facing West Boulevard, Elmin, and the unopened right-of-way shall not have expanses of blank walls greater than 20 feet in all directions and architectural features such as but to limited to banding, modulations or design features or materials will be provided to avoid a sterile, unarticulated blank treatment of such walls.
- Roof Form and Articulation - roof form and lines shall be designed to avoid the appearance of a large monolithic roof structure as follows:
  - Long pitched or flat roof lines shall avoid continuous expanses without variation by including changes in height and/or roof form, to include but not be limited to gables, hips, dormers or parapets.
  - For pitched roofs the minimum allowed is 4:12 excluding buildings with a flat roof and parapet walls. This standard will not apply to roofs on dormers, balconies, or other minor building elements that may have a pitched roof.

- Roof top HVAC and related mechanical equipment will be screened from public view at grade from the nearest street.
- Service Area Screening - service areas such as dumpsters, refuse areas, recycling and storage shall be screened from view with materials and design to be compatible with principal structures and in compliance with the requirements of the Ordinance. Such design shall include a minimum 20 percent Preferred Exterior Building Materials when walls or fences are used to screen these areas. The location of the proposed dumpster and recycling areas is generally depicted on the Rezoning Plan.

- Meter banks will be screened from adjoining properties and from the abutting public streets including the unopened r/w along the western property boundary.

- Open Space:
  - Improved open space areas will be provided as generally depicted on the Rezoning Plan. The proposed open space amenity areas will be improved with landscaping, seating areas, hardscape elements and shade structures as applicable and appropriate to the proposed amenity area. The improved open space area will contain a minimum of 8,000 square feet.
  - The Petitioner will design the storm water and water quality structure proposed along West Blvd. so that it is attractively landscaped and screened from West Boulevard.
  - An improved urban open space area will also be provided along West Blvd. This open space area will be improved with a seating area, landscaping, hardscape elements, and lighting.

- Environmental Features:
  - The location, size and type of storm water management systems depicted on the Rezoning Plan are subject to review and approval as part of the full development plan submittal and are not implicitly approved with this rezoning. Adjustments may be necessary in order to accommodate actual storm water treatment requirements and natural site discharge points.
  - The Site will comply with the Tree Ordinance.

- Lighting:
  - All new lighting shall be full cut-off type lighting fixtures excluding lower, decorative lighting that may be installed along the driveways, sidewalks, parking areas and courtyards.
  - Detached lighting on the Site will be limited to 22 feet in height.

- CATS West Blvd. Bus Stop Improvements:
  - The Petitioner will construct a new ADA compliant bus waiting pad per Land Development Standards 60.01B along West Blvd. for outbound bus stop # 34580. The final location of the pad will be coordinated with CATS during the permitting process.

- Amendments to the Rezoning Plan:
  - Future amendments to the Rezoning Plan (which includes these Development Standards) may be applied for by the then Owner or Owners of the applicable Development Area portion of the Site affected by such amendment in accordance with the provisions of Chapter 6 of the Ordinance.

- Binding Effect of the Rezoning Application:
  - If this Rezoning Petition is approved, all conditions applicable to the development of the Site imposed under the Rezoning Plan will, unless amended in the manner provided under the Ordinance, be binding upon and inure to the benefit of the Petitioner and subsequent owners of the Site and their respective heirs, devisees, personal representatives, successors in interest or assigns.



1318-e6 central ave. # 704.334.3303  
charlotte, nc 28205 # 704.334.3305  
urbandesignpartners.com  
nc firm no: P-0418  
sc coa no: C-03044

The Paces Foundation, Inc.

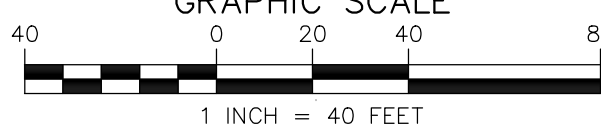
# Historical Nathaniel Carr Senior Community

Rezoning Site Plan  
West Boulevard, Charlotte NC

NO.	DATE	BY:	REVISIONS:
1	01.11.21	UDP	REVISIONS PER CITY PLANNING STAFF
2	02.08.21	UDP	REVISIONS PER CITY PLANNING STAFF
3	03.17.21	UDP	REVISIONS PER CITY PLANNING STAFF

Project No: 20-CLT-146  
Date: 11.12.2020  
Designed By: UDP  
Checked By: UDP  
Sheet No:

## REZONING PETITION #2020-197



# RZ-1.0



## Petition 2020-197 by The Paces Foundation, LLC

### To Approve:

This petition is found to be **inconsistent** with the *Central District Plan* and **consistent** with the *General Development Policies*, based on the information from the staff analysis and the public hearing, and because:

- The *Central District Plan* (1993) recommends single family residential up to 5 units per acre and single family residential up to 8 units per acre, and the *General Development Policies* recommends over 17 dwelling units per acre.

(However, we find) this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The petition meets the *General Development Policies* locational criteria for consideration of over 17 dwelling units per acre.
- The request supports a desired mix of housing types in the area.
- Directly east of the site is a religious institution, and west are a mix of institutional, office, residential, and retail uses.
- The project commits to streetscape improvements along West Boulevard.
- The request commits to several transportation improvements, including provision of an 8-foot sidewalk adjacent to the unopened right-of-way located along the western property line. Pedestrian scale lighting will also be provided along this sidewalk.
- The petition proposes a new ADA compliant bus waiting pad per along West Boulevard for outbound bus stop #34580.
- The petition commits to installation of evergreen shrubs to enhance screening of the parking and refuse areas from existing residential and institutional uses along Elmin Street.
- The site plan clearly identifies proposed open space amenity area and urban open space area with associated conditional notes committing to their improvements.
- The approval of this petition will revise the adopted future land use as specified by the Central District Plan, from current recommended single family residential up to 5 units per acre and single family residential up to 8 units per acre to new recommended residential over 17 units per acre for the site.

The approval of this petition will revise the adopted future land use as specified by the Central District Plan, from current recommended single family residential up to 5 units per acre and single family residential up to 8 units per acre to new recommended residential over 17 units per acre for the site.

### To Deny:

This petition is found to be **inconsistent** with the *Central District Plan* and **consistent** with the *General Development Policies*, based on the information from the staff analysis and the public hearing, and because:

- The *Central District Plan* (1993) recommends single family residential up to 5 units per acre and single family residential up to 8 units per acre, and the *General Development Policies* recommends over 17 dwelling units per acre.

(Therefore, we find) this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**



**Agenda Date:** 6/1/2021

---

**Agenda #:** 8. **File #:** 15-15824 **Type:** Zoning Item

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## **Rezoning Petition: 2021-007 by Pakchanok Lettsome**

**Location:** Approximately 0.2 acre located near the intersection of E. 17<sup>th</sup> Street and Seigle Avenue in the Belmont Community. (Council District 1 - Egleston)

**Current Zoning:** R-5 (single-family residential)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #28

**Staff Resource:** [Will Linville](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

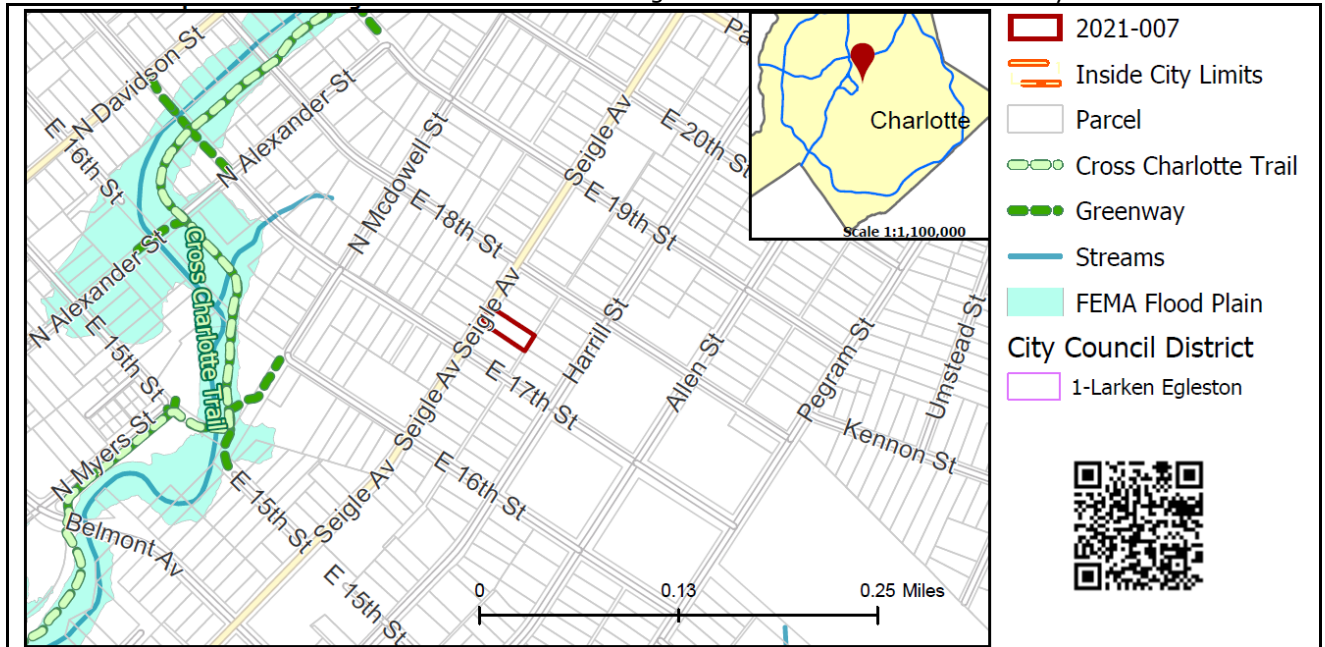
Statement of Consistency

**REQUEST**

Current Zoning: R-5 (residential)  
Proposed Zoning: UR-2(CD) (urban residential, conditional)

**LOCATION**

Approximately 0.2 acres located near the intersection of E. 17<sup>th</sup> Street and Seigle Ave in the Belmont community.



**SUMMARY OF PETITION**

The petition proposes to rezone a .2 acre parcel to an urban residential district to permit the construction of up to two single family detached residential units at a density of up to 10 dwelling units per acre (DUA).

**PROPERTY OWNER**  
**PETITIONER**  
**AGENT/REPRESENTATIVE**

Pakchanok Lettsome  
Pakchanok Lettsome  
Pakchanok Lettsome

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Virtual Community Meeting: 9

**STAFF**  
**RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **inconsistent** with the *Belmont Area Revitalization Plan's* (2003) recommendation for single family uses up to five DUA.

Rationale for Recommendation

- This site falls within an area identified as the Seigle North target area, which identifies opportunities for single family infill development.
- The lot within the rezoning boundary is uniquely positioned to provide infill/density as it is one of the widest (60 feet) vacant single family lots in the neighborhood.
- Per the area plan, new and rehabilitated homes in this target area should be compatible in design character with the existing adjacent housing stock. The petition's commitment to the establishment of two single family detached residential lots is in

alignment with immediately surrounding housing typologies in the area.

- While this petition proposes an increase in density, it still fulfills the area plan's recommendation for single-family residential uses on this site. Further, as this is a vacant lot, no displacement will occur to accommodate the requested density.
- The petition's commitment to a landscape strip and sidewalk meets the area plan's transportation goal of creating a more pedestrian friendly community.

The approval of this petition will revise the adopted future land use as specified by the *Belmont Area Revitalization Plan*, from single family uses up to five DUA to residential uses up to 12 DUA for the site.

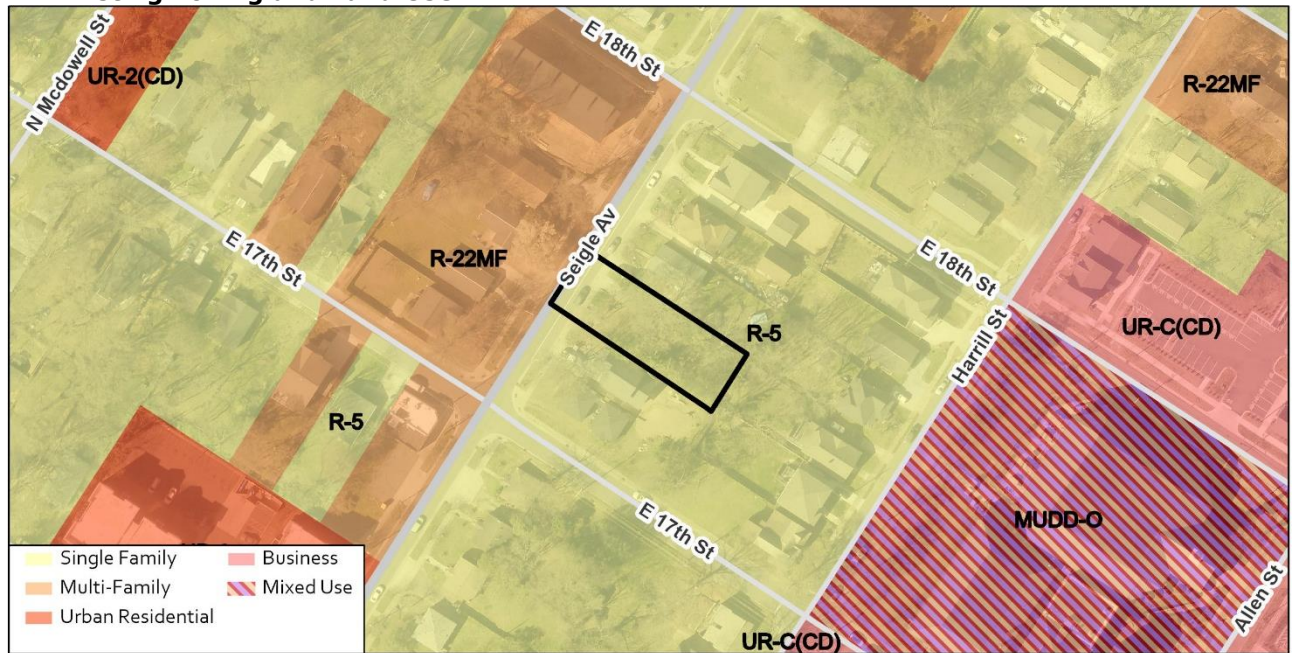
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

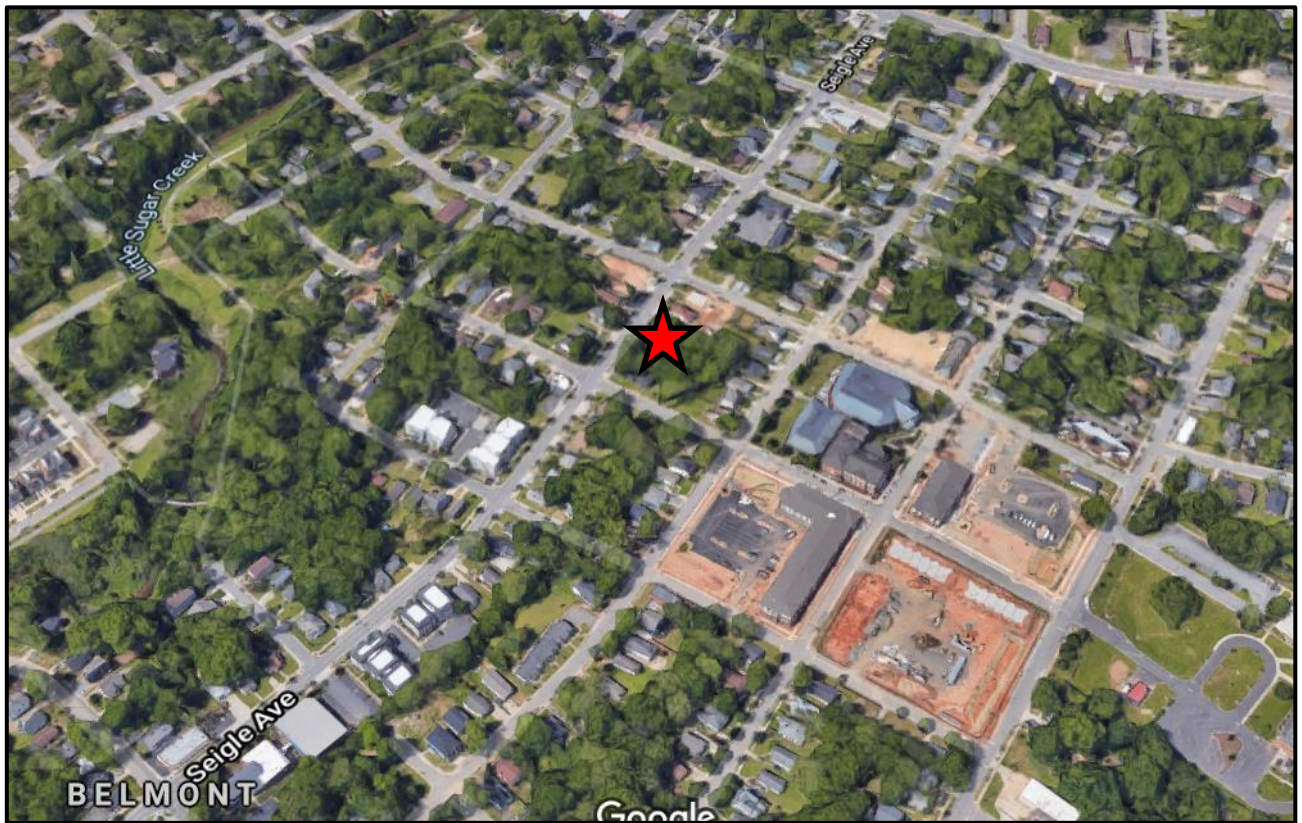
- Proposes up to two single family detached residential units with a maximum building height of 40 feet.
- Access to the proposed units shall be from a shared drive off of Seigle Avenue.
- Commits to an 8-foot planting strip and 6-foot sidewalk along the site's frontage while maintaining on-street parking along the site's frontage as well.
- Commits to multiple architectural features including requiring usable porches and stoops to be located on the front of the building and be at least six foot deep.
- Garage doors treated with setbacks from the front wall plane and other architectural elements such as translucent windows or projecting elements.
- Commits to full cutoff detached lighting while allowing upward directed landscaping lighting.

### • Existing Zoning and Land Use



There have been no historic rezonings of this site. The site is surrounded by a mixture of housing types and zoning including townhomes/multi-family to the SW and NW of the subject property and the St. Paul Baptist Church multi-family project (2010-009) to the SE.





General location of subject property denoted by red star.



Streetview along Seigle Ave looking east toward the subject property. The lot frontage along Seigle is generally located as illustrated with the white overlay.





Looking west from Seigle Avenue across from the subject property. Detached houses in this area are generally single-story but multiple housing types are found along the corridor.

- **Rezoning History in Area**



Petition Number	Summary of Petition	Status
2018-011	Petition to rezone single family-zoned parcel to UR-2 zoning district.	Approved



- **Public Plans and Policies**



- The *Belmont Area Revitalization Plan* (2003) recommends single family uses up to 5 DUA for the site.

- **TRANSPORTATION SUMMARY**

- The site is located on a City-maintained minor thoroughfare (Seigle Avenue). The proposed use will increase the vehicle trips per day from 10 trips existing to 20 trips per day. There are no active projects in the immediate area. The petitioner commits to constructing a 6-foot sidewalk with an 8-foot planting strip, and a shared driveway, while maintaining an on-street parking spot along the site's frontage. CDOT has no outstanding issues with this petition.
- **Active Projects:**
  - N/A
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 0 trips per day (based on vacant land use).  
Entitlement: 10 trips per day (based on one dwelling).  
Proposed Zoning: 20 trips per day (based on two dwellings).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No outstanding issues.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate zero students, while the development allowed under the proposed zoning may produce one student. Therefore, the net increase in the number of students generated from existing zoning to proposed is one student.
  - The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
    - Villa Heights Elementary remains at 75%
    - Eastway Middle remains at 117%
    - Garinger High remains at 117%.

- **Charlotte Water:** Water and sewer service is accessible for this rezoning boundary. Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 6-inch water distribution main located along Seigle Avenue. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along Seigle Avenue. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Engineering and Property Management:**
  - **Arborist:** No comments submitted.
  - **Erosion Control:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
  - **Land Development:** No outstanding issues.
  - **Storm Water Services:** No outstanding issues.
  - **Urban Forestry:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.

#### OUTSTANDING ISSUES

##### Transportation

1. ~~Clearly label the proposed ROW as "dedicated" to distinguish between the existing and the proposed ROW.~~ **ADDRESSED**
2. ~~Although a commitment is made in the rezoning plan notes, the petitioner should properly illustrate the 8-foot planting strip and 6-foot sidewalk on the plan.~~ **ADDRESSED**
3. ~~Add conditional note specifying dedication and fee simple conveyance of all rights-of-way to the City before the site's first building certificate of occupancy is issued. CDOT requests rights-of-way set at 2' behind back of sidewalk where feasible.~~ **ADDRESSED**

##### Site and Building Design

4. ~~Correct scale so that reviewers may verify that setbacks are being met.~~ **ADDRESSED**

#### REQUESTED TECHNICAL REVISIONS

##### Site and Building Design

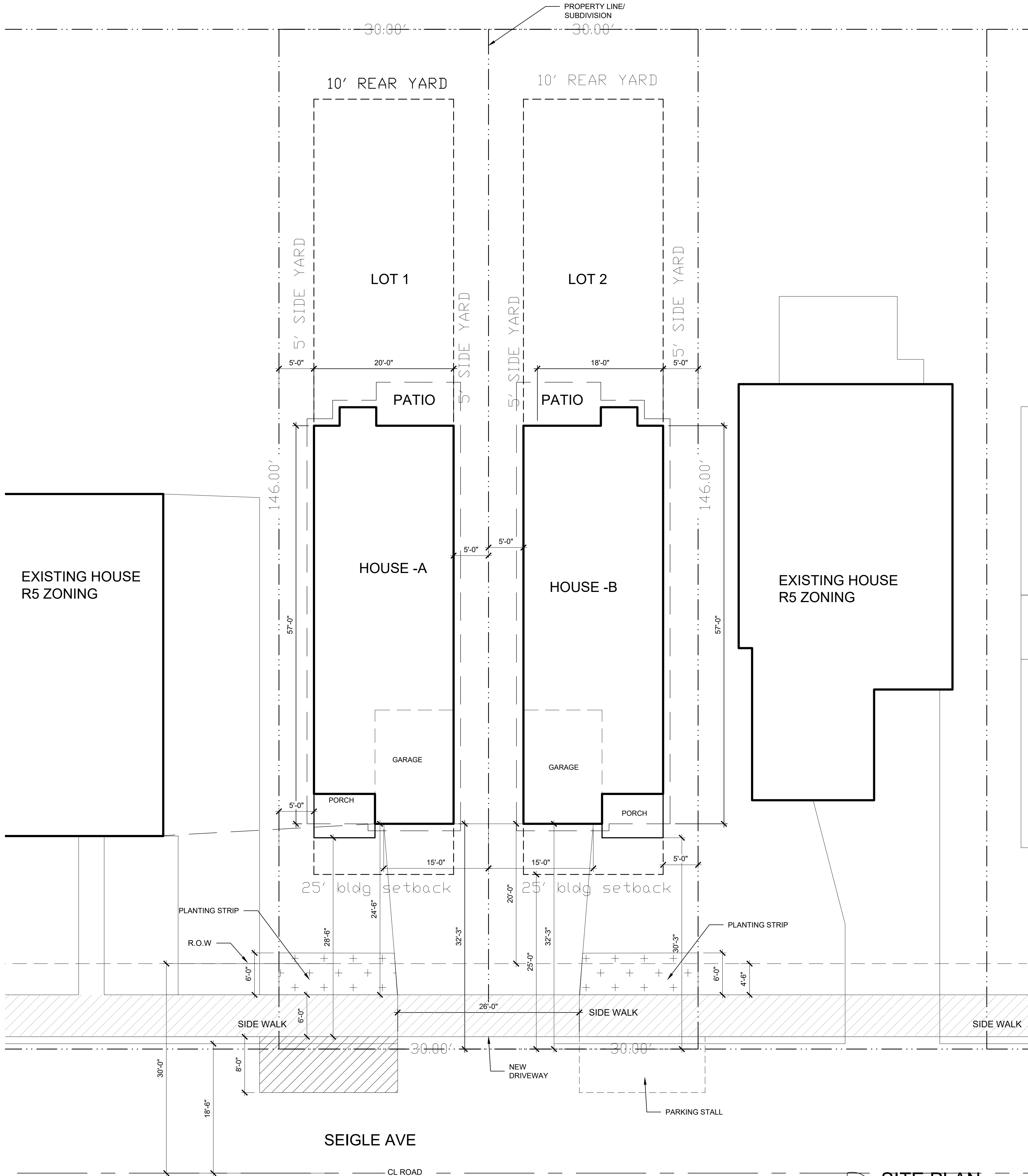
5. ~~Add rezoning petition number (2021-007) in right hand margin of rezoning sheet.~~ **ADDRESSED**
6. ~~Ensure that the reference to the garage setback where it states "garage setback from public R/W: 20' from back of R/W or back of sidewalk, whichever is greater" is met on the site plan.~~ **ADDRESSED**
7. ~~Remove the bullet in the development data table that makes reference to the maximum building height as it is repeated in the table above.~~ **ADDRESSED**
8. ~~The development table notes that the minimum setback is 14 feet from future back of curb but site plan notes a different dimension. Please correct.~~ **ADDRESSED**
9. ~~Note zoning of adjacent parcels.~~ **ADDRESSED**
10. ~~Conditional note bullets should be numbered throughout the plan.~~ **ADDRESSED**
11. ~~The subsection labeled "Streetscape and Landscaping" should replace current note with a note that reads "The petitioner shall comply with the requirements of the Zoning Ordinance and all other applicable city regulations."~~ **ADDRESSED**

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**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** William Linville (704) 336-4090





OWNER NAME: PAKCHANOK LETTSOME  
LEGAL DESCRIPTION : L9 &P8 B15 M173-582  
PARCEL ID : 08113110  
**CURRENT ZONING: R5**  
LAND AREA: 0.203 GIS CALC. ACRES  
FIRE DISTRICT: CITY OF CHARLOTTE  
LAND USE: SINGLE FAMILY RESIDENTIAL

Not located in FEMA

- REZONING FROM R5 TO UR2 (CD)
- DIMENSIONAL REQUIREMENTS FOR THE UR-2 DISTRICT ARE LISTED BELOW:
1. MINIMUM LOT AREA (SQUARE FEET)=3,000
  2. MINIMUM SIDE YARD (FEET) =5
  3. MINIMUM SETBACK (FEET) =25' FROM BACK OF CURB
  4. MINIMUM REAR YARD (FEET) =10
  5. MAXIMUM FLOOR AREA RATIO =1.0
  6. GARAGE SETBACK FROM PUBLIC R/W: 20' FROM BACK OF R/W
  7. MAXIMUM HEIGHT (FEET): 40'
  8. MINIMUM LOT WIDTH (FEET)=20

- DEVELOPMENT DATA
1. EXISTING ZONING (INCLUDING OVERLAYS AND VESTING): R5
  2. PROPOSED ZONING : UR-2 (CD)
  3. MAXIMUM NUMBER OF BUILDINGS: 2
  4. NUMBER AND/OR RATIO OF PARKING SPACES: AS PER THE ZONING ORDINANCE"

- General Provisions:**
1. These Development Standards form a part of the Rezoning Plan associated with the Rezoning Petition filed by Pakchanok Lettsome - Bow & Arrow Properties, LLC ("Petitioner") to accommodate the development of two (2) single family detached residential units on an approximate 0.20-acre site located on 1408 SEIGLE AVENUE in the City of Charlotte, which is more particularly depicted on the Rezoning Plan (the "Site").
  2. The Site is comprised of Tax Parcel Numbers: 08113110.
  3. Development of the Site shall be governed by the Rezoning Plan, these Development Standards and the applicable provisions of the City of Charlotte Zoning Ordinance (the "Ordinance").
  4. Unless the Rezoning Plan or these Development Standards establish more stringent standards, the regulations established under the Ordinance for the "UR-2" Zoning District shall govern all development taking place on the Site.
  5. The configurations, placements and sizes of the lots, driveways and points of access and site improvements depicted on the Rezoning Plan are schematic in nature and therefore are subject to refinements as part of the total design process.

- Permitted Uses:**
1. Uses allowed within the rezoning area included in this Petition are those uses that are permitted within the UR-2 zoning district as related to the establishment of up to two (2) single family detached residential lots. However, those uses shall be limited as described within the following development conditions and as generally indicated within this petition.

- Transportation:**
1. Vehicular access to public rights of way will be as generally depicted on the Rezoning Plan. Front loaded vehicular access to Lots 1, 2 shall be allowable from SEIGLE AVENUE.
  2. The Petitioner shall provide an 6' landscape strip and 6' sidewalk along existing public street right of way as generally depicted on the Site plan.
  3. Public improvements including public 6' sidewalk, located outside of existing rights of way, shall be located within a sidewalk utility. Dedication and fee sample conveyance of all right of way to the city (prior to first building certificate of occupancy issuance).
  4. All transportation improvements will be approved and constructed before the site's first building certificate of occupancy is issued is needed. The petitioner may phase transportation improvements if said improvements and phasing are explicitly described in site plan notes

- Architectural Standards:**
1. To provide privacy, all residential entrances within 15 feet of the sidewalk must be raised from the average sidewalk grade a minimum of 24 inches.
  2. Pitched roofs, if provided, shall be symmetrically sloped no less than 5:12, except that roofs for porches and attached sheds may be no less than 2:12, unless a flat roof architectural style is employed.
  3. Usable porches and stoops shall form a predominant feature of the building design and be located on the front of the building. Usable front porches, when provided, should be covered and be at least 6 feet deep. Stoops and entry level porches may be covered but should not be enclosed.
  4. Garage doors visible from public or private streets should minimize the visual impact by providing a setback of 12 to 24 inches from the front wall plane and additional architectural treatments such as translucent windows or projecting elements over the garage door opening.
  5. Walkways should be provided to connect all residential entrances to sidewalks along public and private streets.

- Streetscape and Landscaping:**
1. The petitioner shall comply with requirements of the zoning ordinance and all other applicable city regulations.

- Environmental Features:**
1. The Petitioner shall comply with the City of Charlotte Post Construction Ordinance.
  2. The Petitioner shall comply with the City of Charlotte Tree Ordinance.

- Lighting:**
1. All attached and detached lighting will be full cutoff fixtures and downwardly directed. However, upward directed architectural and landscape accent lighting shall be permitted.

- Amendments to Rezoning Plan:**
1. Future amendments to the Site Plan or these Development Standards may be applied for by the then Owner or Owners of the parcel or parcels within the Site involved in accordance with the provisions of Chapter 6 of the Ordinance.

**Binding Effect of the Rezoning Documents and Definitions:**

1. If this Site Plan Amendment is approved, all conditions applicable to development of the Site imposed under the Technical Data Sheet will, unless amended in the manner provided under the Ordinance, be binding upon and inure to the benefit of the Petitioner and the current and subsequent owners of the Site and their respective successors in interest and assigns.
2. Throughout these Development Standards, the terms, "Petitioner" and "owner" and "owners" shall be deemed to include the heirs, devisees, personal representatives, successors in interest and assigns of the Petitioner or the owners of the Site from time to time who may be involved in any future development thereof.

LOT LOCATION:  
1408 SEIGLE AVENUE, CHARLOTTE



2021-007

**Bow & Arrow  
Properties**

LOCATION:  
1408 Seigle Ave.,  
Charlotte NC

REVISIONS:	
NO	DATE

DATE 5/20/2021

REZONING SITE PLAN

RZ-1.0



## Petition 2021-007 by insert Panchanok Lettsome

### To Approve:

This petition is found to be **inconsistent** with the *Belmont Area Revitalization Plan* with respect to proposed land use, based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to five dwelling units per acre (DUA).

However, we find this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- This site falls within an area identified as the Seigle North target area, which identifies opportunities for single family infill development.
- The lot within the rezoning boundary is uniquely positioned to provide infill/density as it is one of the widest (60 feet) vacant single family lots in the neighborhood.
- Per the area plan, new and rehabilitated homes in this target area should be compatible in design character with the existing adjacent housing stock. The petition's commitment to the establishment of two single family detached residential lots is in alignment with immediately surrounding housing typologies in the area.
- While this petition proposes an increase in density, it still fulfills the area plan's recommendation for single-family residential uses on this site. Further, as this is a vacant lot, no displacement will occur to accommodate the requested density.
- The petition's commitment to a landscape strip and sidewalk meets the area plan's transportation goal of creating a more pedestrian friendly community.

The approval of this petition will revise the adopted future land use as specified by the Belmont Area Revitalization Plan, from single family uses up to five DUA to residential uses up to 12 DUA for the site.

### To Deny:

This petition is found to be **inconsistent** with the *Belmont Area Revitalization Plan* with respect to proposed land use, based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to five dwelling units per acre (DUA).

Therefore, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

**Motion:**

**Approve or Deny**

**Maker:**

**2<sup>ND</sup>:**

**Vote:**

**Dissenting:**

**Recused:**



**Agenda Date:** 6/1/2021

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**Agenda #:** 9. **File #:** 15-15825 **Type:** Zoning Item

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## **Rezoning Petition: 2021-009 by Edward Judson McAdams**

**Location:** Approximately .59 acre located at 2100 Matheson Avenue, directly adjacent to Charlotte Country Club. (Council District 1 - Egleston)

**Current Zoning:** R-3 (single-family residential)

**Proposed Zoning:** R-4 (single-family residential)

**Public Hearing Held:** May 17, 2021 - Item #29

**Staff Resource:** [Will Linville](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis  
Statement of Consistency

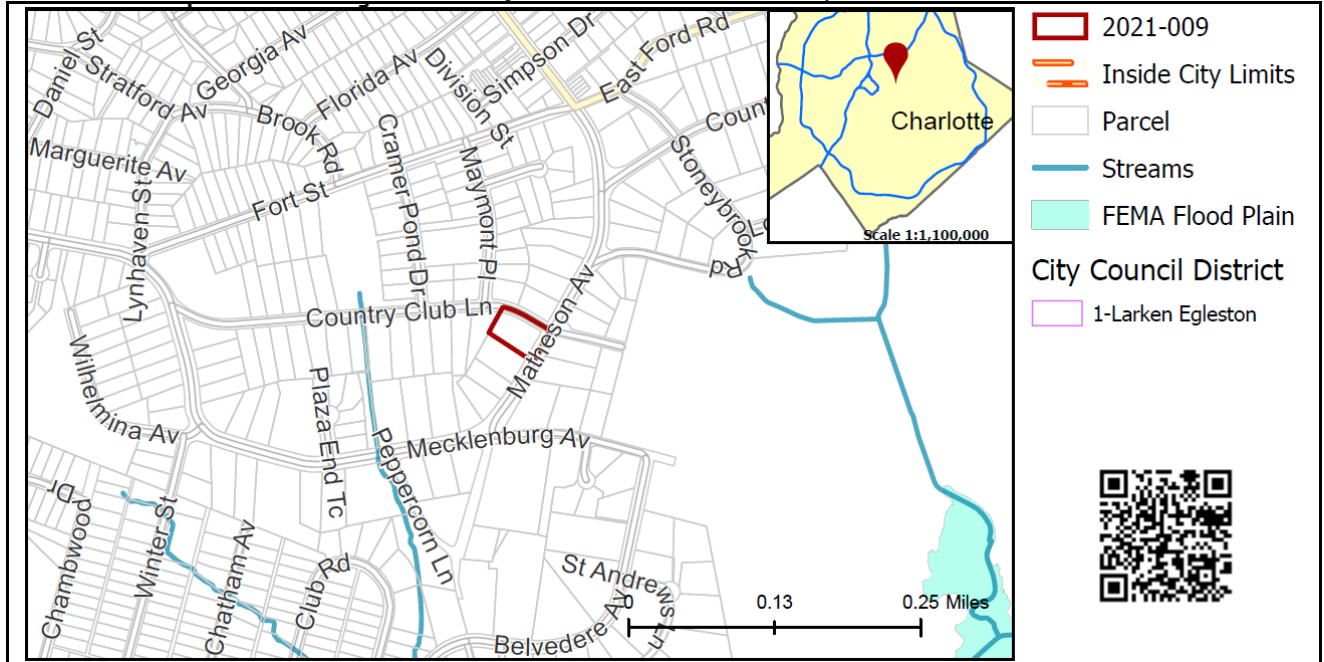


**REQUEST**

Current Zoning: R-3 (residential)  
Proposed Zoning: R-4 (residential)

**LOCATION**

Approximately .59 acres located at 2100 Matheson Avenue, directly adjacent to Charlotte Country Club.



**SUMMARY OF PETITION**

The petition proposes to rezone a singular parcel containing one single family detached home to allow all uses both permitted by right and under prescribed conditional in the R-4 zoning district.

**PROPERTY OWNER**

Eloise Fisher Adams

**PETITIONER**

Edward Judson McAdams

**AGENT/REPRESENTATIVE**

Edward Judson McAdams

**COMMUNITY MEETING**

Meeting is not required.

**STAFF  
RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **consistent** with the *Central District Plan's* (1993) recommendation for single family uses up to four dwelling units per acre (DUA) for the site.

Rationale for Recommendation

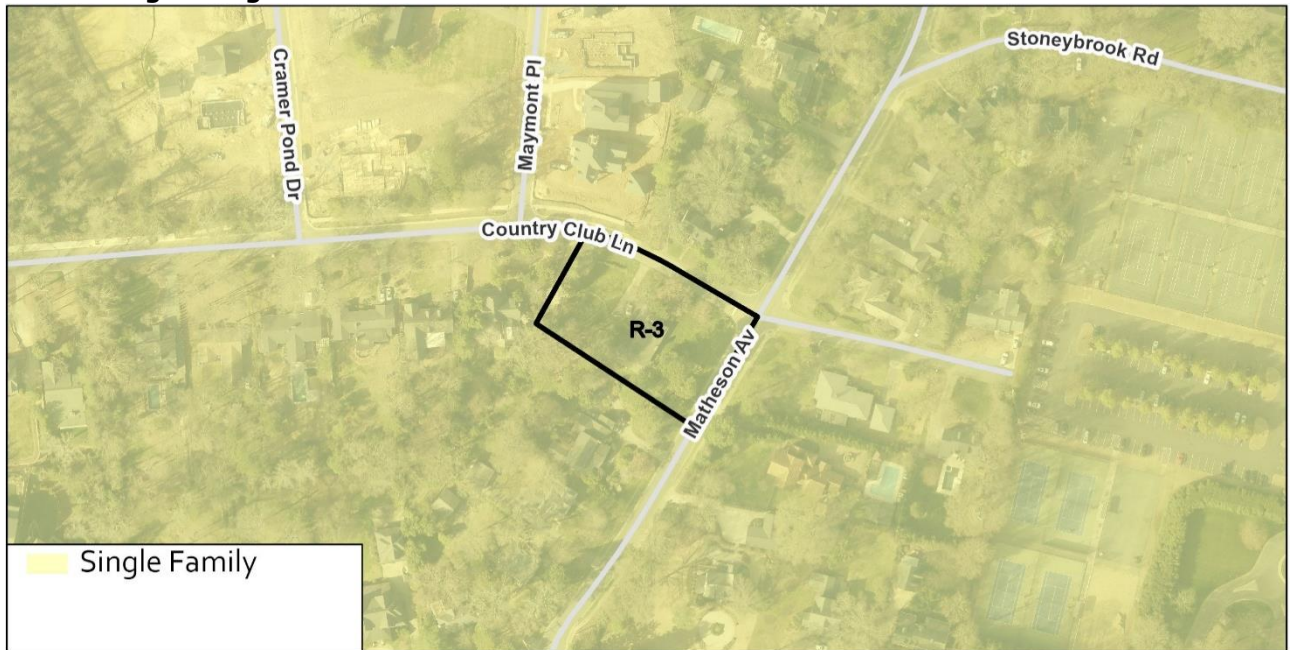
- The rezoning request brings the parcel into alignment with recommended density of four DUA, per the *Central District Plan*.
- The requested district would not result in any other housing type permitted outside of current zoning (duplex or single family detached) and is still contextually appropriate to the surrounding neighborhood.
- The district plan stresses the importance of maintaining the existing land use pattern in established neighborhoods, which this request would achieve.

**PLANNING STAFF REVIEW**

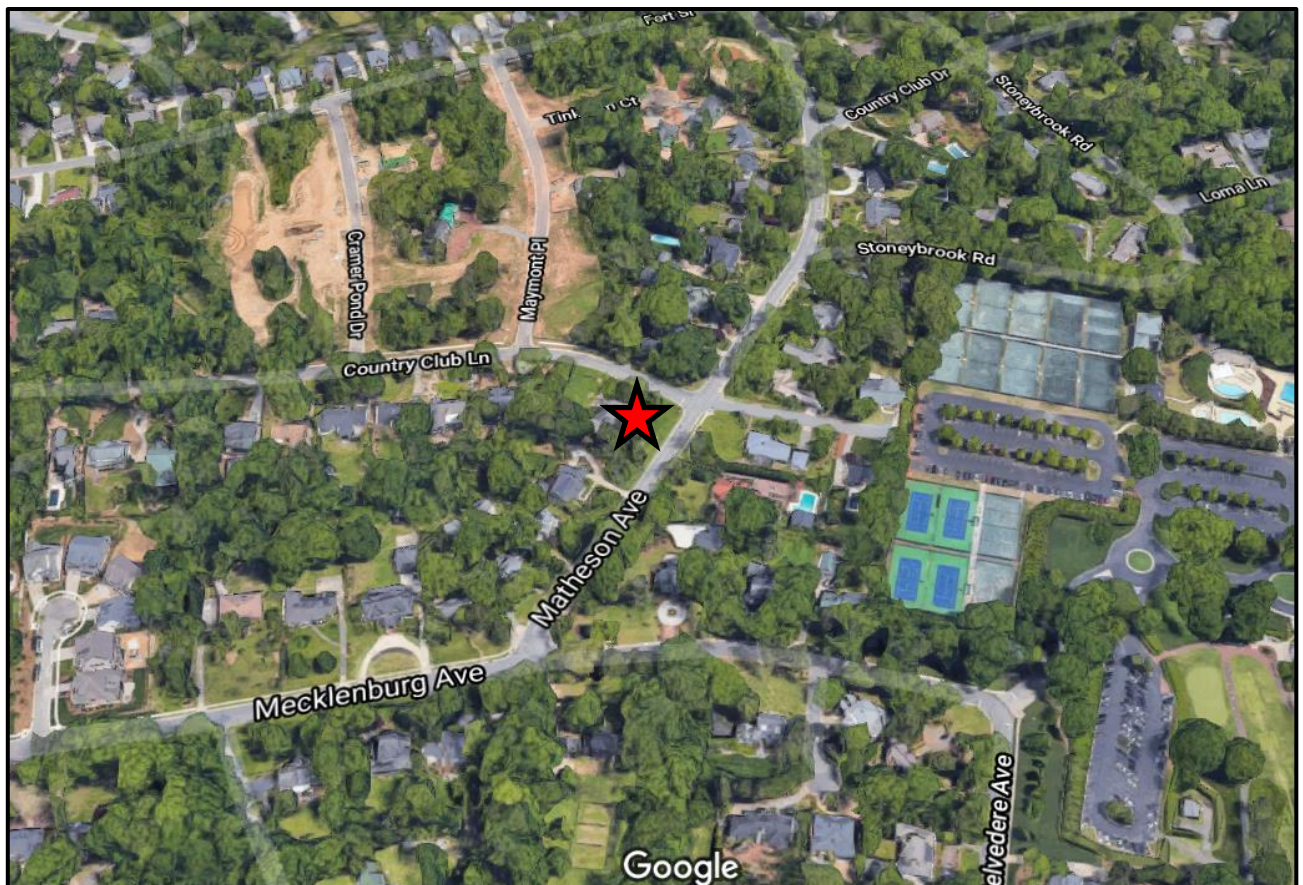
- **Proposed Request Details**

This is a conventional rezoning petition with no associated site plan.

- **Existing Zoning and Land Use**



There have been no recent rezonings of this parcel or the surrounding area. The parcel is surrounded by similarly zoned detached residential parcels and is near the Charlotte Country Club.



General location of subject property denoted by red star.





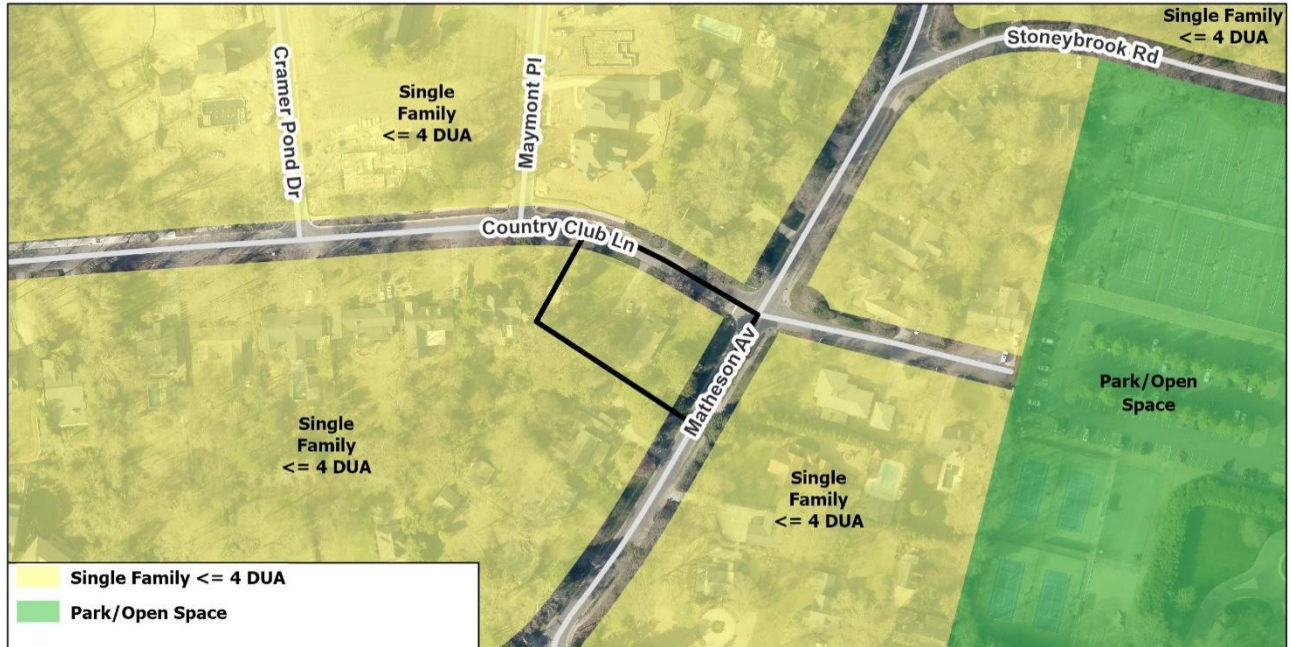
Streetview looking west along Matheson Avenue toward subject property. The lot currently holds one single family detached home.

• **Rezoning History in Area**



Petition Number	Summary of Petition	Status
2020-067	Petition to rezone large lot with historic home that that allowed for preservation of historic home with added residential infill.	Approved

- **Public Plans and Policies**



- The *Central District Plan* (1993) recommends single family uses up to 4 DUA.
- **TRANSPORTATION SUMMARY**
  - The petition is located adjacent to Country Club Lane, a City-maintained local street, and Matheson Avenue, a City-maintained minor collector. The trip generation for this petition will go from 10 vehicle trips per day existing to a potential 20 trips per day. Site plan review of ordinance requirements will occur during the land development permitting process since this is a conventional rezoning request. Chapter 19 of the City Code may apply and require the developer to provide street improvements for their frontage.
- **Active Projects:**
  - N/A
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 10 trips per day (based on one single family dwelling).  
Entitlement: 10 trips per day (based on one single family dwelling).

Proposed Zoning: 20 trips per day (based on two single family dwellings).

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

- **Charlotte Area Transit System:** No comments submitted.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No comments submitted.
- **Charlotte Fire Department:** No comments submitted.
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate zero students, while the development allowed under the proposed zoning may produce one student. Therefore, the net increase in the number of students generated from existing zoning to proposed is one student.
  - The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
    - Shamrock Gardens Elementary remains at 83%
    - Eastway Middle remains at 117%
    - Garinger High remains at 117%.
- **Charlotte Water:** Water and sewer service is accessible for this rezoning boundary. Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 12-inch water distribution main located along Matheson Ave and via a 6-inch water main located along

Country Club Lane. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along Matheson Ave. See advisory comments at [www.rezoning.org](http://www.rezoning.org)

- **Engineering and Property Management:**
    - **Arborist:** No comments submitted.
    - **Erosion Control:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
    - **Land Development:** No outstanding issues.
    - **Storm Water Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
    - **Urban Forestry:** No outstanding issues.
  - **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
  - **Mecklenburg County Parks and Recreation Department:** No comments submitted.
- 

**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** William Linville (704) 336-4090



## Petition 2021-009 by Edward Judson McAdams

### To Approve:

This petition is found to be **consistent** with the *Central District Plan* with respect to proposed land use, based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to four dwelling units per acre (DUA) for the site.

Therefore, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The rezoning request brings the parcel into alignment with recommended density of four DUA, per the Central District Plan.
- The requested district would not result in any other housing type permitted outside of current zoning (duplex or single family detached) and is still contextually appropriate to the surrounding neighborhood.
- The district plan stresses the importance of maintaining the existing land use pattern in established neighborhoods, which this request would achieve.

### To Deny:

This petition is found to be **consistent** with the *Central District Plan* with respect to proposed land use, based on the information from the staff analysis and the public hearing, and because:

- The plan recommends single family uses up to four dwelling units per acre (DUA) for the site.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

### Approve or Deny

### Maker:

2<sup>ND</sup>:

### Vote:

### Dissenting:

### Recused:



**Agenda Date:** 6/1/2021

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**Agenda #:** 10. **File #:** 15-15826 **Type:** Zoning Item

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## **Rezoning Petition: 2021-010 by Madison Capital Group**

**Location:** Approximately 4.9 acres located north of Wilkinson Boulevard, south of Arty Drive, and west of Berryhill Road. (Council District 3 - Watlington)

**Current Zoning:** B-1 (neighborhood business, O-2 (office), and R-22 MF (multi-family residential)

**Proposed Zoning:** TOD-NC (transit-oriented development - neighborhood center)

**Public Hearing Held:** May 17, 2021 - Item #30

**Staff Resource:** [Lisa Arnold](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

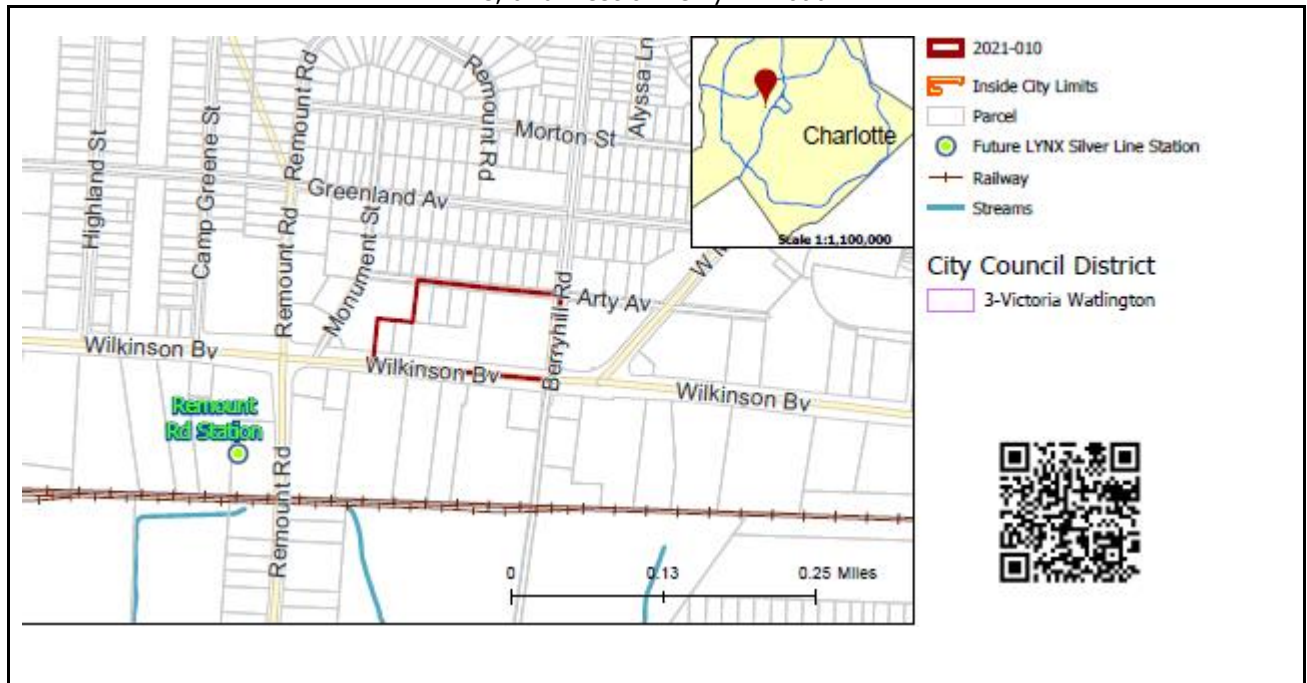
Post-Hearing Staff Analysis  
Statement of Consistency

**REQUEST**

Current Zoning: B-1 (neighborhood business), O-2 (office), and R-22MF (multi-family residential)  
Proposed Zoning: TOD-NC (transit oriented development – neighborhood center)

**LOCATION**

Approximately 4.9 acres located north of Wilkinson Blvd, south of Arty Drive, and west of Berryhill Road.



**SUMMARY OF PETITION**

The petition proposes to redevelop several parcels to allow all uses in the TOD-NC zoning district.

**PROPERTY OWNER**

William Cotton Gilliam, Alice Elizabeth Gilliam, Newport Holdings SS LLC, Newport Holdings KL LLC, NVD Inc., Lucia Properties LLC, Daniel Edgar Fleming, and Michael Smith Wilson Estate

**PETITIONER  
AGENT/REPRESENTATIVE**

Madison Capital Group  
Collin Brown and Brittany Lins, Alexander Ricks

**COMMUNITY MEETING**

Meeting is not required.

**STAFF  
RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **consistent** with the *Bryant Park Land Use and Streetscape Plan* recommendation for residential/office/retail land uses for this site.

Rationale for Recommendation

- The proposed rezoning for transit oriented development, is consistent with the mixed-use land use recommendation for this site.
- The site is within a quarter mile walk from a proposed transit station, as part of CATS Silver Line light rail line project.

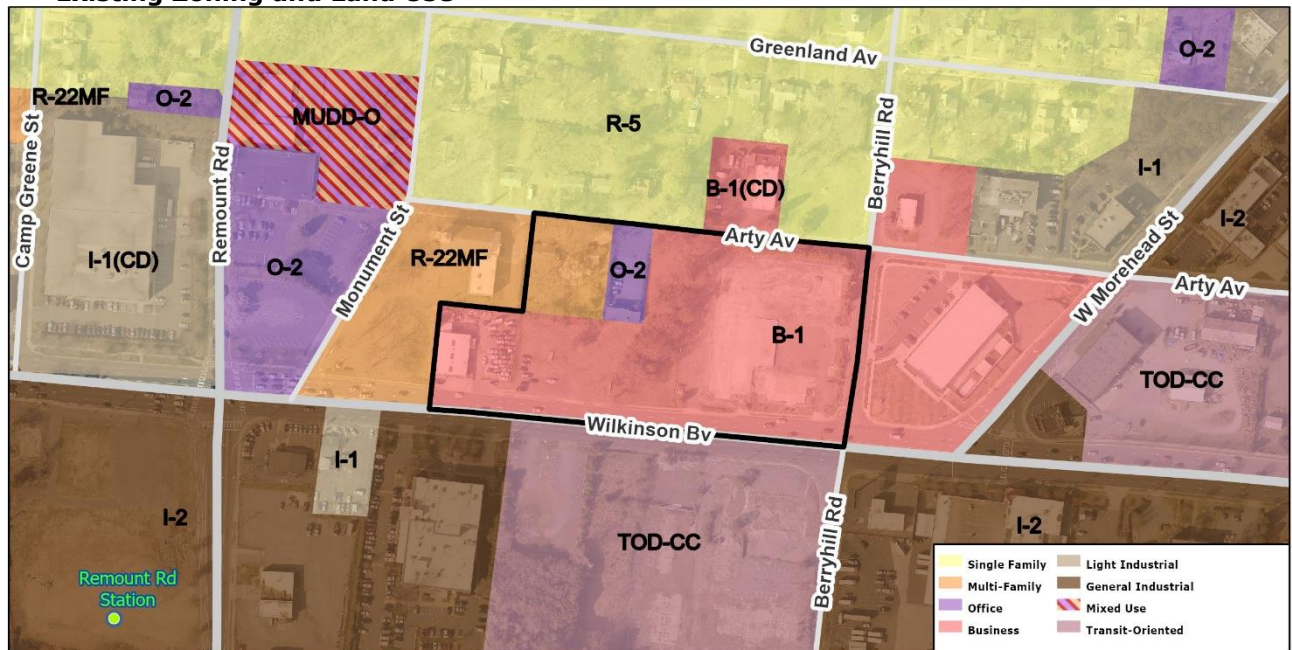
- Transit oriented development and mixed use developments have been approved along Wilkinson Boulevard and West Morehead Street on this corridor, less than five hundred feet from this site.

## PLANNING STAFF REVIEW

- **Proposed Request Details**

This is a conventional rezoning petition with no associated site plan.

- **Existing Zoning and Land Use**



The surrounding land uses include single family residential, religious institution, industrial, and business uses.





The site consists of vacant land, automotive repair, office, and single family houses. The site is marked with a red star.



The properties to the north are developed with single family homes, an office building, and vacant land. The site to be rezoned is marked with a red star.





The properties to the south consist of vacant parcels and an office building.



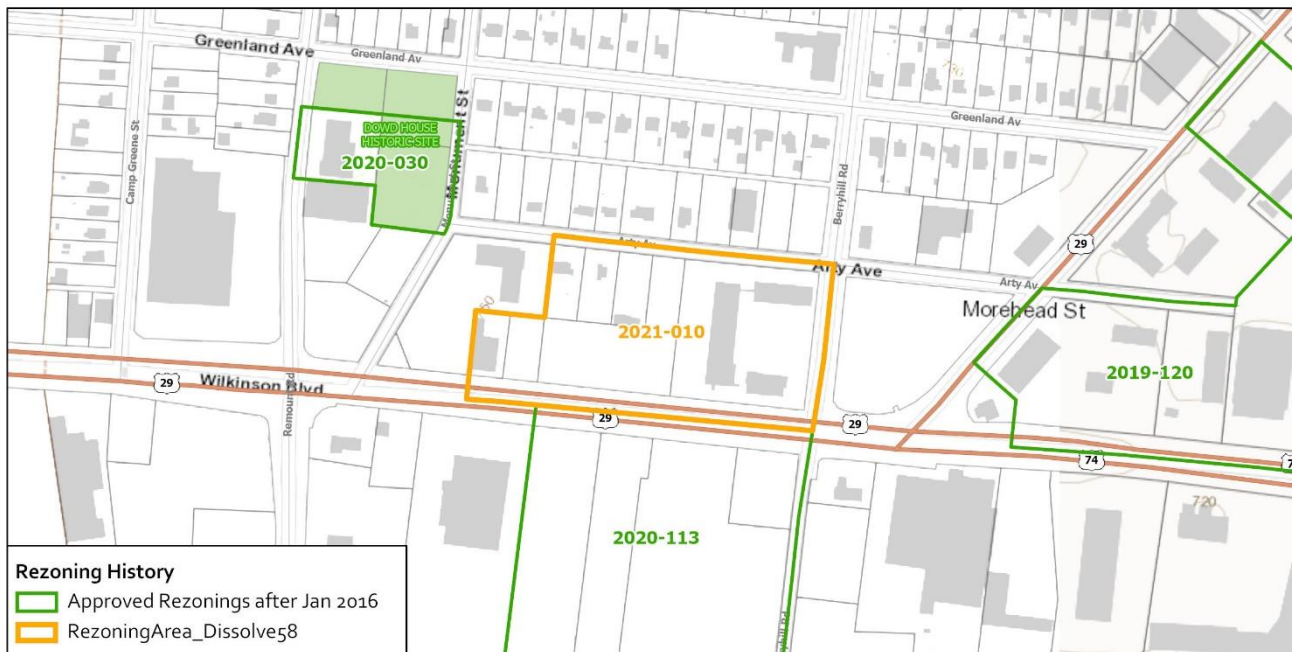
The property to the east is developed with pet service facility.





The property to the west is developed with a religious institution.

- **Rezoning History in Area**

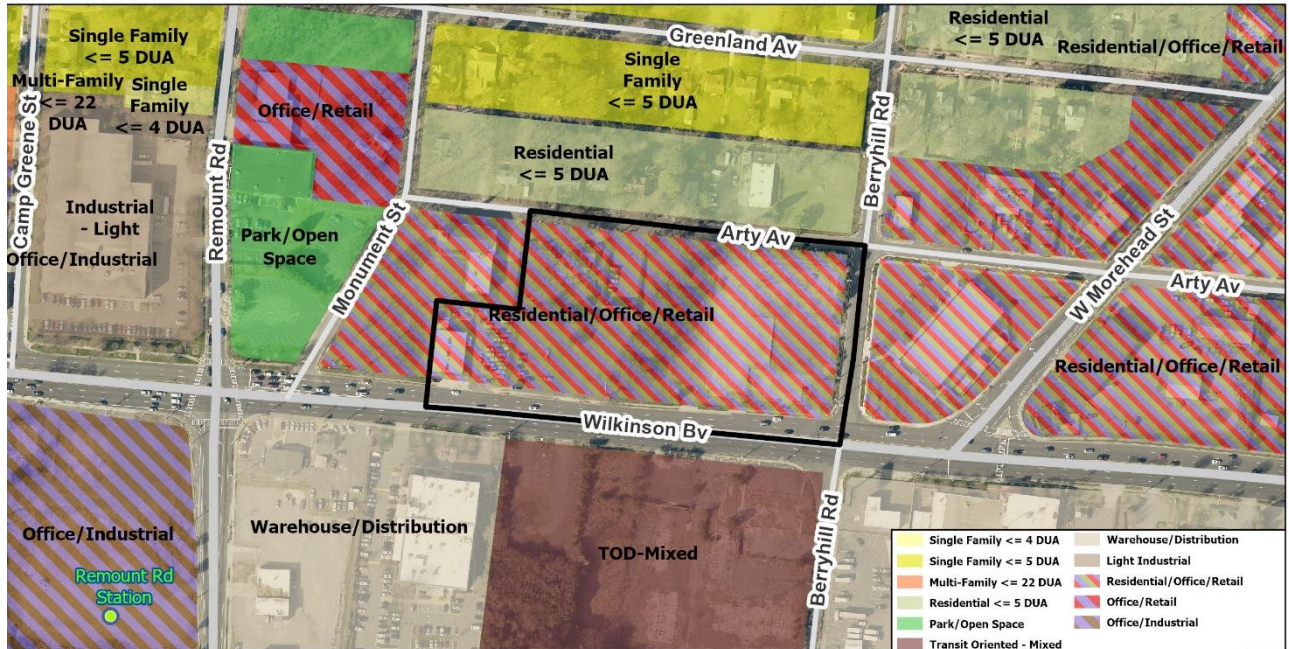


Petition Number	Summary of Petition	Status
2019-120	The petition rezoned property to TOD-CC (transit oriented development - community center).	Approved



2020-030	The petition rezoned property to MUDD-O (mixed use development district, optional) to adaptively reuse the buildings onsite, including the historic Dowd House, to allow up to 16,000 SF of office and/or commercial uses.	Approved
2020-113	The petition rezoned property to TOD-CC (transit oriented development-community center).	Approved

• **Public Plans and Policies**



- The *Bryant Park Land Use and Streetscape Plan* (adopted 2007) recommends residential/office/retail land uses for this site. The site is also located less than ¼ mile walk from a proposed Silver Line light rail transit station.

• **TRANSPORTATION SUMMARY**

- The site is located adjacent to Arty Avenue, a City-maintained local street, Berryhill Road, a City-maintained collector street, and Wilkinson Boulevard, a State-maintained major thoroughfare. The petition is in the West Corridor inside Route 4.

• **Active Projects:**

- LYNX Silver Line Light Rail (and Rail Trail)
  - The draft refined alignment of the Silver Line will follow the freight rail corridor south of Wilkinson Blvd. With planned stations at Remount Rd and Suttle Ave, bicycle and pedestrian connectivity will be critical to meet the intent of TOD.
  - <https://charlottenc.gov/cats/transit-planning/Pages/silver-line.aspx>

• **Transportation Considerations**

- No outstanding issues.

• **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 200 trips per day (based on 2 dwellings, 5,191SF auto shop, and 2,196 SF Office).

Entitlement: 3,360 trips per day (based on 4,650 SF Office, 12 multi-family units, and 40,300 SF retail).

Proposed Zoning: Too many uses to determine (based on TOD-CC).

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

- **Charlotte Area Transit System:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)

- **Charlotte-Mecklenburg Schools:** The conventional district allows a variety of uses; therefore, the impact on local schools cannot be determined. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 8-inch water distribution main located along Wilkinson Blvd, via an 8-inch main on Berryhill Rd, and via a 6-inch main along Arty Ave.

Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along Wilkinson Blvd and via an 8-inch main along Arty Ave. No outstanding issues.

- **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](http://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:** No outstanding issues.

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**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** Lisa Arnold (704) 336-5967

## Petition 2021-010 by Madison Capital Group

### To Approve:

This petition is found to be **consistent** with the *Bryant Park Land Use and Streetscape Plan* based on the information from the staff analysis and the public hearing, and because:

- The plan recommends residential/office/retail land uses.

(Therefore, we find) this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The proposed rezoning for transit oriented development, is consistent with the mixed-use land use recommendation for this site.
- The site is within a quarter mile walk from a proposed transit station, as part of CATS Silver Line light rail line project.
- Transit oriented development and mixed use developments have been approved along Wilkinson Boulevard and West Morehead Street on this corridor, less than five hundred feet from this site.

### To Deny:

This petition is found to be **consistent** with the *Bryant Park Land Use and Streetscape Plan* based on the information from the staff analysis and the public hearing, and because:

- The plan recommends residential/office/retail land uses.

(However, we find) this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

#### Approve or Deny

#### Maker:

2<sup>ND</sup>:

### Vote:

#### Dissenting:

#### Recused:





**Agenda Date:** 6/1/2021

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**Agenda #:** 11. **File #:** 15-15827 **Type:** Zoning Item

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## **Rezoning Petition: 2021-013 by Hebron Road Holdings, LLC**

**Location:** Approximately 8.25 acres bound by Old Hebron Road and Hebron Street, east of Nations Ford Road, and west of South Boulevard. (Council District 3 - Watlington)

**Current Zoning:** I-1 (light industrial)

**Proposed Zoning:** I-2 (general industrial)

**Public Hearing Held:** May 17, 2021 - Item #31

**Staff Resource:** [John Kinley](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

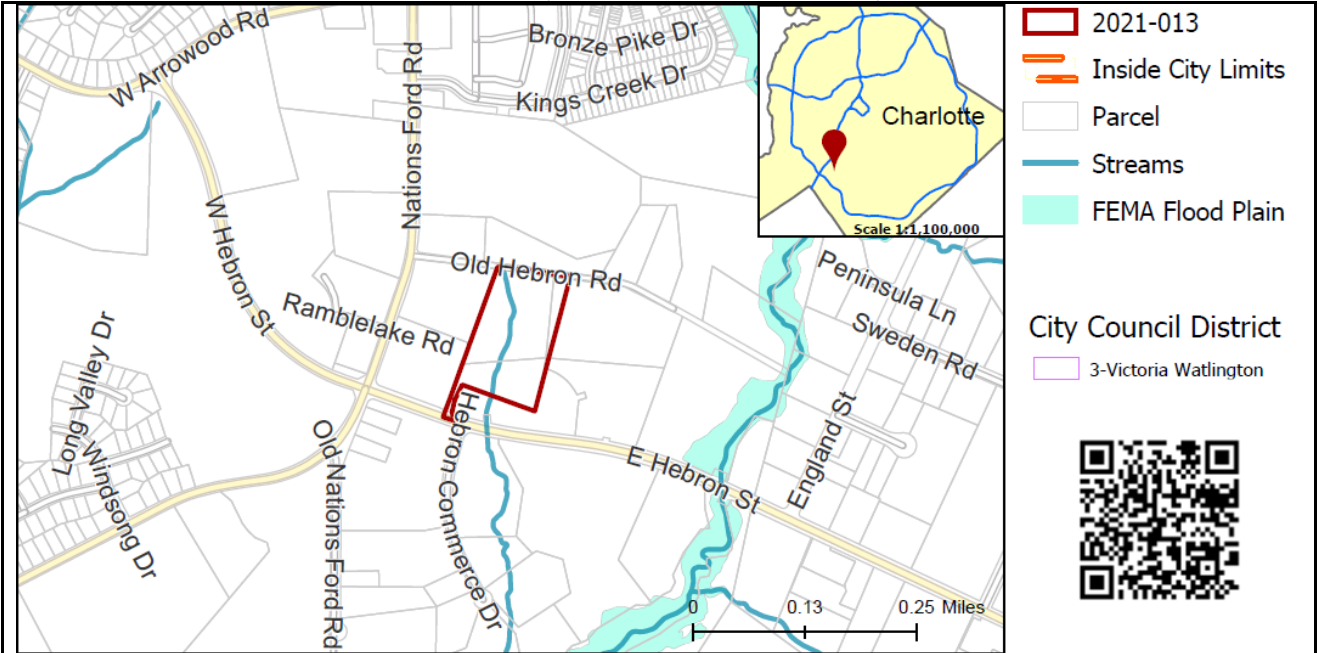
Statement of Consistency

**REQUEST**

Current Zoning: I-1 (light industrial)  
Proposed Zoning: I-2 (general industrial)

**LOCATION**

Approximately 8.25 acres bound by Old Hebron Road and Hebron Street, east of Nations Ford Road, and west of South Boulevard.



**SUMMARY OF PETITION**

The petition proposes to allow all uses in the I-2 zoning district.

**PROPERTY OWNER**

Hebron Road Holdings, LLC & Lee Transport Equipment, Inc

**PETITIONER**

Hebron Road Holdings, LLC

**AGENT/REPRESENTATIVE**

Susanne Todd, Johnston Allison Hord

**COMMUNITY MEETING**

Meeting is not required.

**STAFF**

**RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **consistent** with the *Southwest District Plan* recommendation for industrial land uses for the majority of the site and **inconsistent** with the plan recommendation for light industrial for a portion in the northwest corner of the site.

Rationale for Recommendation

- The petition aligns the zoning with remaining portions of the parcels east of the rezoning area.
- Other properties east of the rezoning area are zoned I-2.
- The area along Old Hebron Road and E. Hebron Street is developed with industrial uses.
- The site does not abut residential use or zoning.
- Post Construction Water quality buffers exist along the tributary within the site work to mitigate potential environmental impacts.

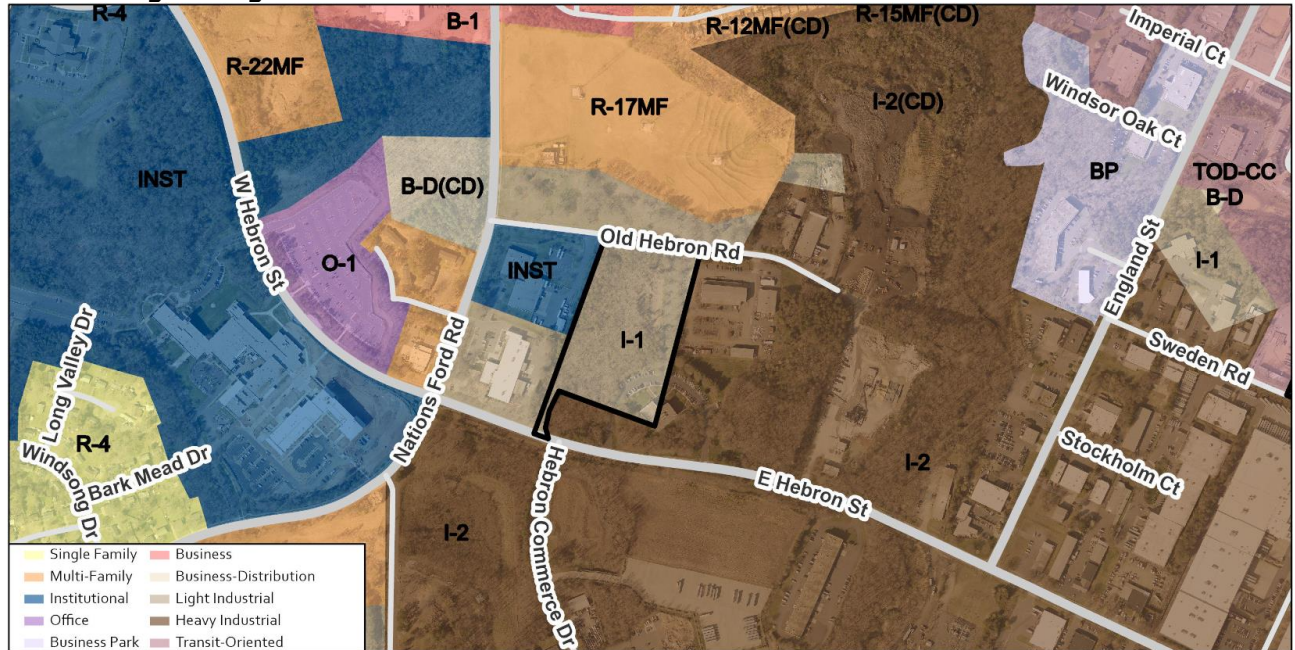
The approval of this petition will revise the adopted future land use as specified by the *Southwest District Plan*, from light industrial use to industrial use for the northwestern, corner portion of the site.

### PLANNING STAFF REVIEW

- **Proposed Request Details**

This is a conventional rezoning petition with no associated site plan.

- **Existing Zoning and Land Use**



The land use in the immediate area is industrial, north and west of the site is a mixture of uses including institutional, single family & multi-family residential and business. East of the site, near the Blue Line are industrial uses and transit oriented development.



The majority of site, indicated by the red star above, is vacant. A portion of this has a small warehouse.





Property north of the site, across Old Hebron Road is vacant.



Property east of the site is industrial.



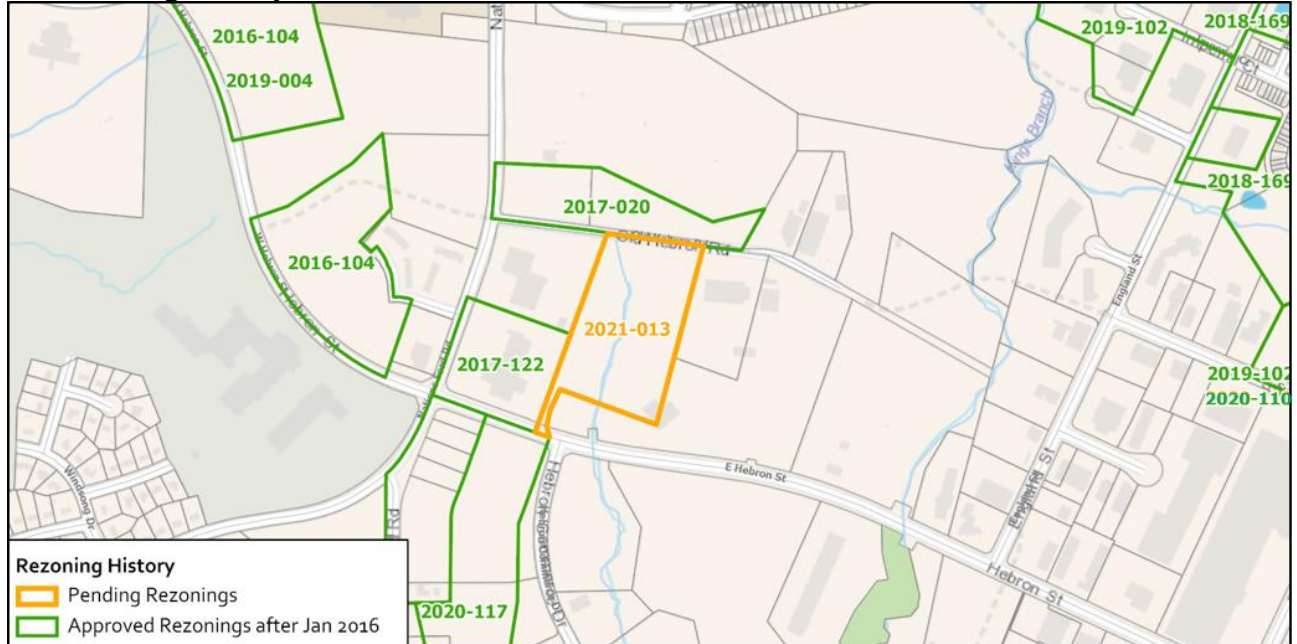
Property west of the site along Nations Ford Road is institutional and industrial.



South of the site, across E Hebron Street, are industrial uses.

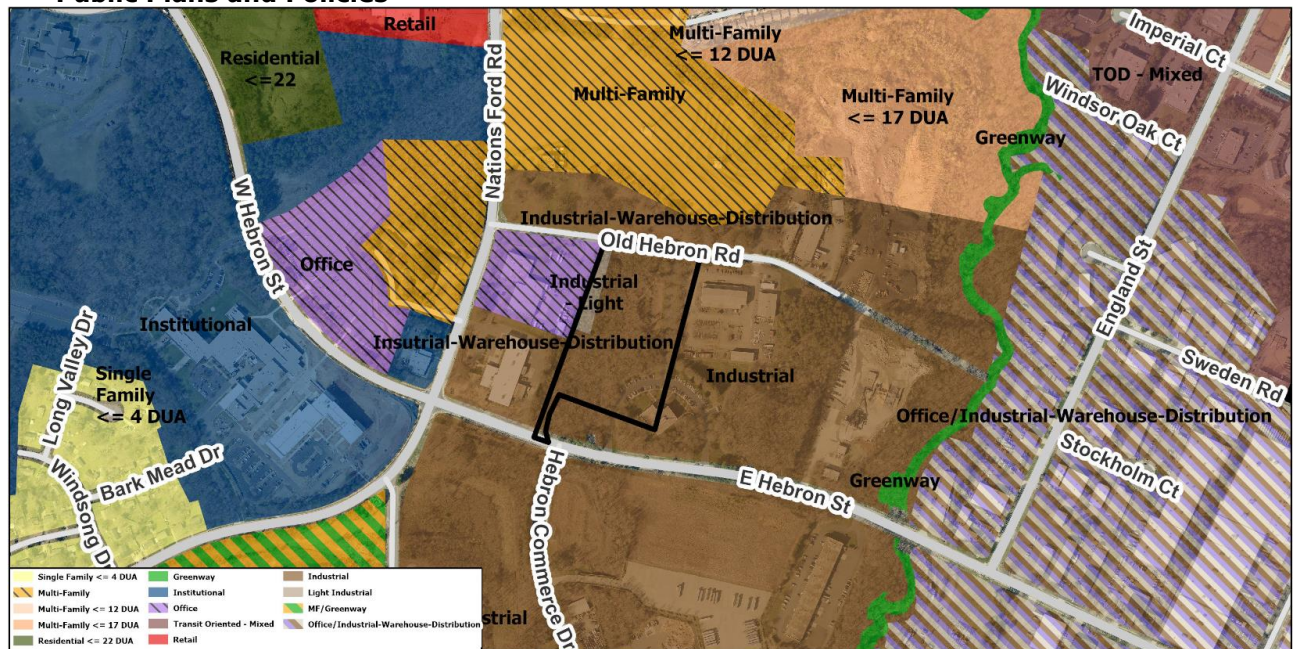


- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2016-104	18.7 acres, west of the site, from B-1(CD) & INST to INST & O-1	Approved
2017-020	4.97 acres, north of the site, from R-17MF to I-1	Approved
2017-122	4.42 acres, west of the site, from INST to I-1	Approved
2018-169, 2019-102	Acreage along the Blue Line, east of the site, to align zoning to the new TOD districts.	Approved
2020-110	2.5 acres, east of site, from TOD-CC to I-2 for City of Charlotte General Services.	Approved
2020-117	15 acres, south of the site, from R-17MF & I-1 to I-2	Approved

- Public Plans and Policies**



- The *Southwest District Plan* recommends industrial land uses for the majority of the site a small portion at the northwest corner of the site is recommended for light industrial.



- **TRANSPORTATION SUMMARY**

- The site is located on a City-maintained minor thoroughfare (Old Hebron Road) and a local road (East Hebron Street). A portion of the site was rezoned under petition 2007-125 where it changed to I-1 zoning. As this is a conventional rezoning petition, CDOT will work with the petitioner during permitting to coordinate with existing projects in the area and fully review the site plan for compliance with any other development requirements.
- **Active Projects:**
  - No projects near the site.
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**

Current Zoning:  
Existing Use: 60 trips per day (based on 8,000 sq ft warehouse).  
Entitlement: 180 trips per day (based on 82,500 sq ft warehouse).  
Proposed Zoning: 245 trips per day (based on 123,750 sq ft warehouse).

**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 Department of Solid Waste Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** Nonresidential petitions do not impact the number of students generated.
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 8-inch water distribution main located along E Hebron Road and via a 6-inch main located along Old Hebron Rd. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along E Hebron Road and via an 8-inch main along Old Hebron Rd. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **City Arborist:** No comments submitted.
- **Erosion Control:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://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:** No outstanding issues.

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**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** John Kinley (704) 336-8311

## Petition 2021-013 by Hebron Road Holdings, LLC

### To Approve:

This petition is found to be **consistent** with the *Southwest District Plan* for the majority of the site and **inconsistent** with the Plan based on the information from the staff analysis and the public hearing, and because:

- The plan recommends industrial uses for the majority of the site
- The plan recommends light industrial for a small portion in the northwest of the site.

(Therefore, we find) this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The petition aligns the zoning with remaining portions of the parcels east of the rezoning area.
- Other properties east of the rezoning area are zoned I-2.
- The area along Old Hebron Road and E. Hebron Street is developed with industrial uses.
- The site does not abut residential use or zoning.
- Post Construction Water quality buffers exist along the tributary within the site work to mitigate potential environmental impacts.

The approval of this petition will revise the adopted future land use as specified by the *Southwest District Plan*, from light industrial use to industrial use for the northwestern, corner portion of the site.

### To Deny:

This petition is found to be **consistent** with the *Southwest District Plan* for the majority of the site and **inconsistent** with the Plan based on the information from the staff analysis and the public hearing, and because:

- The plan recommends industrial uses for the majority of the site
- The plan recommends light industrial for a small portion in the northwest of the site.

(However, we find) this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

### Approve or Deny

### Maker:

### 2<sup>ND</sup>:

### Vote:

### Dissenting:

### Recused:



**Agenda Date:** 6/1/2021

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**Agenda #:** 12. **File #:** 15-15828 **Type:** Zoning Item

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## **Rezoning Petition: 2021-015 by Exponential Development, LLC**

**Location:** Approximately 2.56 acres located in the northeastern corner of the intersection of West Boulevard and Holabird Lane. (Council District 3 - Watlington)

**Current Zoning:** B-1S (CD) (business shopping center, conditional)

**Proposed Zoning:** UR-2 (CD) (urban residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #33

**Staff Resource:** [Joe Mangum](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition upon resolution of an outstanding issue related to transportation.

**Attachments:**

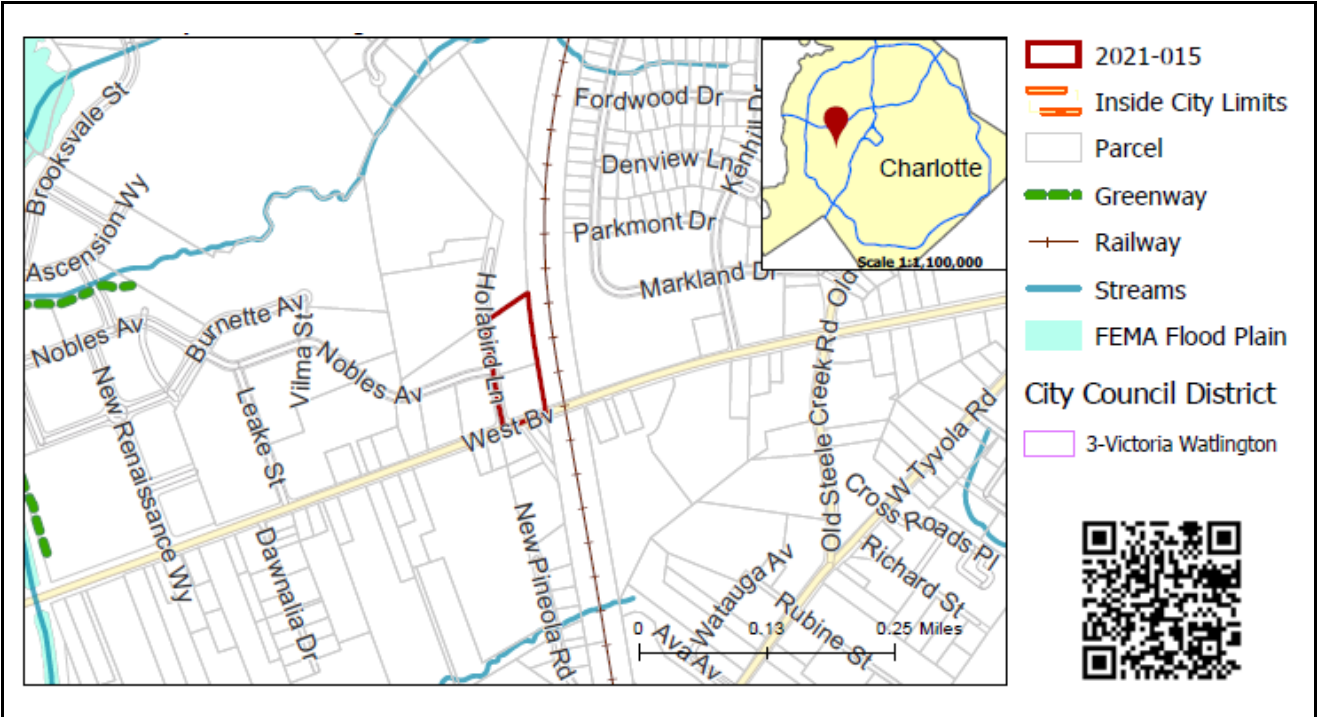
Post-Hearing Staff Analysis  
Site Plan  
Statement of Consistency

**REQUEST**

Current Zoning: B-1SCD (business shopping center, conditional)  
Proposed Zoning: UR-2 (CD) (urban residential, conditional)

**LOCATION**

Approximately 2.56 acres located in the northeastern corner of the intersection of West Boulevard & Holabird Lane.



**SUMMARY OF PETITION**

The petition proposes to allow the development of up to 29 single family attached residential units on a vacant, wooded property. The site is located in the West Boulevard corridor near the Renaissance community.

**PROPERTY OWNER**  
**PETITIONER**  
**AGENT/REPRESENTATIVE**

Exponential Development, LLC  
Exponential Development, LLC  
Brandon Maxwell

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 1

**STAFF**  
**RECOMMENDATION**

Staff recommends approval of this petition upon resolution of an outstanding issue related to Transportation.

Plan Consistency

The petition is **inconsistent** with the retail land use recommended for this site as per the *Central District Plan* (1993).

Rationale for Recommendation

- The proposed residential land use, while inconsistent with the retail use recommended for this site, is consistent with the existing residential development pattern in the area.
- The site has not been developed for retail uses despite being zoned for such use since 1968.

- The proposed density of 11.35 dwelling units per acre is within the *General Development Policies* (GDP) score of up to 12 dwelling units per acre for this site.
- The site is served by two CATS bus routes and the petition has committed to constructing a bus pad and shelter onsite. Additionally, the site is within ¼ mile of a Mecklenburg County park and ½ mile of a CMS K-8 school.

The approval of this petition will revise the adopted future land use as specified by the *Central District Plan*, from retail recommended use to residential up to 12 dwellings per acre for the site.

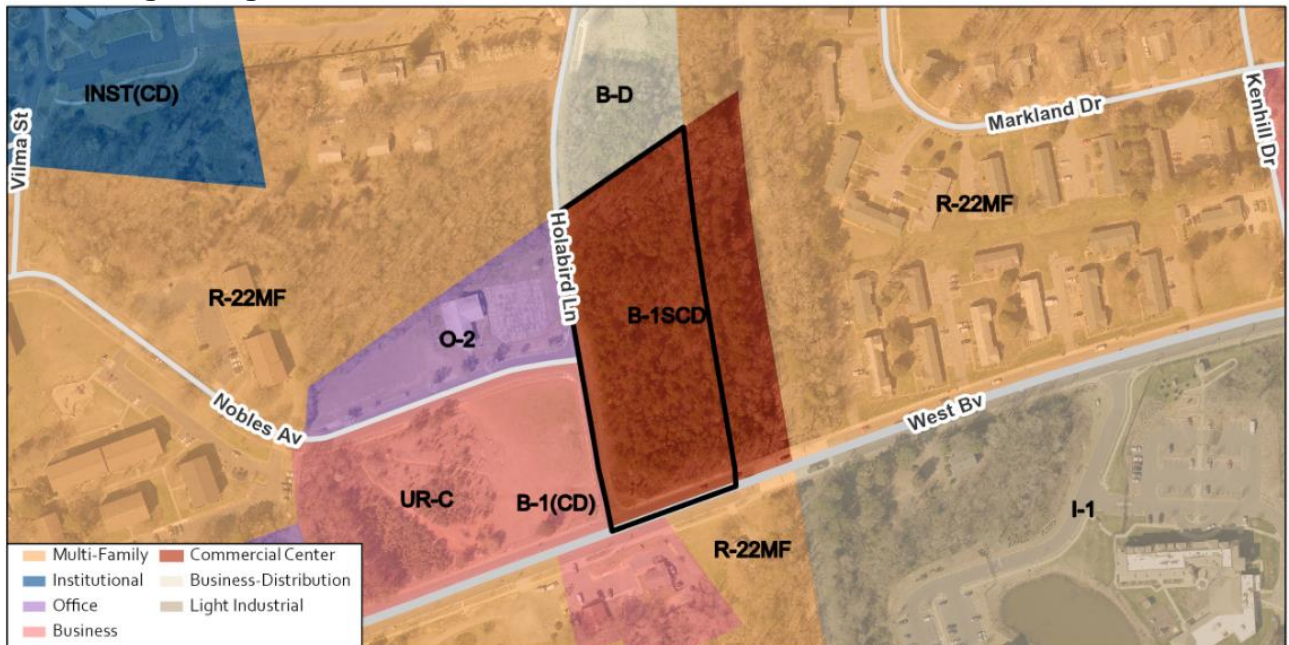
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

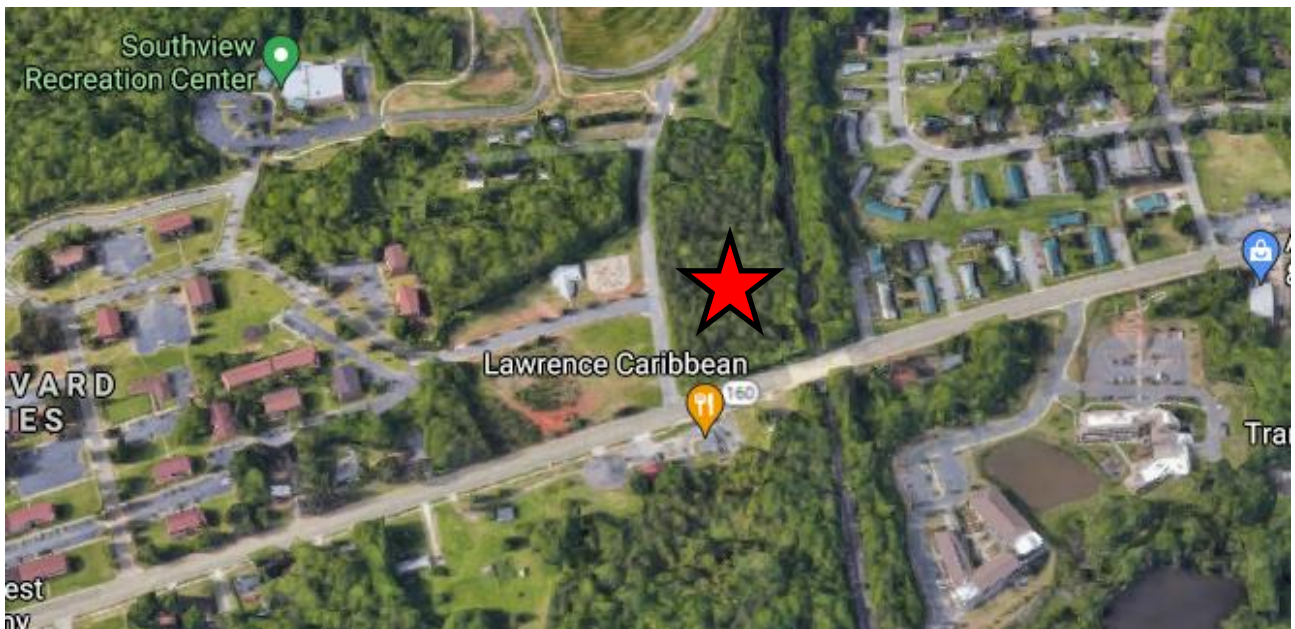
- Proposes 29 single family attached dwelling units in 8 buildings. There would be no more than 5 units per building.
- Limits building height to 40'.
- Commits to architectural design standards including usable porches and stoops, sidewalks to public rights-of-way, and blank wall limitations.
- Proposes all units to be rear-loaded and accessed via private alleys.
- Commits to construction of an ADA compliant bus waiting pad and shelter along West Boulevard.
- Proposes right-of-way dedication measured 50.5' from centerline on West Boulevard and 35.5' from centerline on Holabird Lane.
- Commits to construction of an 8' buffered bike lane, 8' planting strip, and 8' sidewalk along West Boulevard and 6' sidewalk along Holabird Lane behind recessed on-street parking.
- Proposes that all freestanding light fixtures greater than 21' in height to be fully capped, shielded, and downwardly directed.

### • Existing Zoning and Land Use



The site was rezoned in 1968 to allow development of a shopping center, which never came to fruition. The property has since remained vacant.





The site, marked by a red star, is bordered to the east by a railroad and is surrounded by a mix of uses including apartments, a church, a restaurant, and a park and recreation center.



View of the site looking northeast from West Boulevard.



The property to the north is developed with outdoor recreational uses.





The properties to the east of the site are developed with a railroad and multifamily dwellings.



The properties to the south of the site are developed with retail and restaurant uses.



The properties to the west of the site include vacant land and institutional uses.

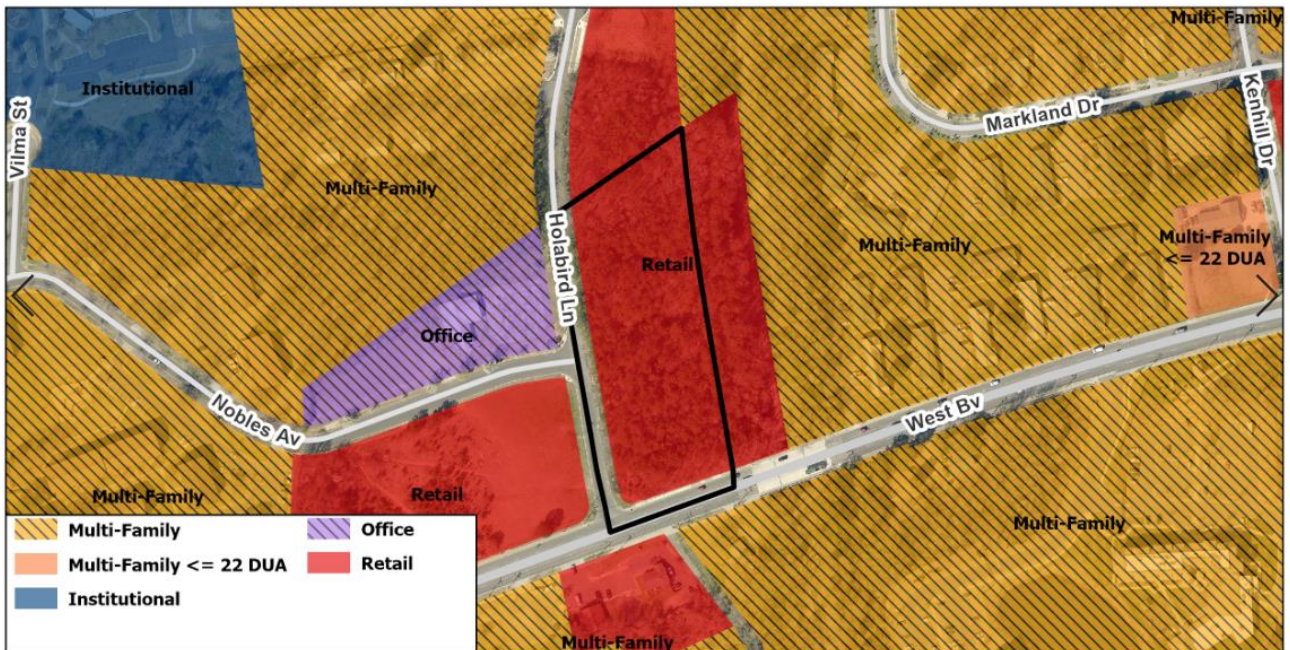


- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2019-121	This petition rezoned 1.15 acres to allow all uses within the UR-C zoning district.	Approved

- Public Plans and Policies**



- The *Central District Plan* (adopted 1993) recommends retail land use for this site.
- The *General Development Policies* (GDP) provides policy guidance for evaluating proposed residential densities greater than four units per acre. The petition meets the General Development Policies locational criteria for consideration of up to 12 dwellings per acre as illustrated in the table below.

Assessment Criteria	Density Category – up to 12 dua
Meeting with Staff	1
Sewer and Water Availability	2
Land Use Accessibility	3
Connectivity Analysis	3
Road Network Evaluation	0
Design Guidelines	4
Other Opportunities or Constraints	NA
<b>Minimum Points Needed: 12</b>	<b>Total Points: 13</b>

• **TRANSPORTATION SUMMARY**

- This site is located at the corner of West Boulevard, a State-maintained major thoroughfare, and Holabird Lane, a City-maintained local street. There is an ongoing project, West Boulevard Corridor Implementation, in the area constructing bicycle and pedestrian improvements. CDOT requests that the petitioner continue the required pedestrian infrastructure north of the property, roughly 230 feet, to help connect this site to the Southwest Recreation Center, creating safe pedestrian access to an existing recreation center serving existing and proposed residents. Additionally, in-line with the City's BIKES policy, the petitioner has agreed to construct a buffered bike lane along the site's West Boulevard frontage. Site plan revisions are needed to meet ordinance requirements and/or the outstanding items including, but not limited to construction of the pedestrian infrastructure up to the Southwest Recreation Center. Further details are listed below.
- **Active Projects:**
- West Boulevard Corridor Implementation
  - Construction of numerous bicycle and pedestrian improvements from Camden Road to Billy Graham Parkway.
  - Construction ongoing.

• **Transportation Considerations**

- See Outstanding Issues, Note 1.

• **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 0 trips per day (based on vacant property).

Entitlement: 2,380 trips per day (based on 25,600 SF of retail).

Proposed Zoning: 180 trips per day (based on 29 townhomes).

**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 Department of Solid Waste Services:** No comments submitted.
- **Charlotte-Douglas International Airport:** No comments submitted.
- **Charlotte Fire Department:** No comments submitted.
- **Charlotte-Mecklenburg Historic Landmarks:** No comments submitted.
- **Charlotte-Mecklenburg Police Department:** No comments submitted.
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate 0 students, while the development allowed under the proposed zoning may produce 4 students. Therefore, the net increase in the number of students generated from existing zoning to proposed is 4.
  - The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
    - Renaissance West STEM Academy remains at 101%
    - Harding High remains at 129%.
- **Charlotte Water:** Water and sewer service is accessible for this rezoning boundary. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Engineering and Property Management:**
  - **Arborist:** No comments submitted.
  - **Erosion Control:** No comments submitted.
  - **Land Development:** No outstanding issues.
  - **Storm Water Services:** No outstanding issues.

- **Urban Forestry:** No comments submitted.
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No comments submitted.

**OUTSTANDING ISSUES**Transportation

1. Revise the site plan and conditional notes by committing to extending the 8-foot planting strip and 6-foot sidewalk, along Holabird Lane, to the existing sidewalk at the cul-de-sac of Holabird Lane. This sidewalk will provide a pedestrian connection from West Boulevard to the Southwest Recreation Center where a gap currently exists and would assist CDOT in finishing an important pedestrian connection.

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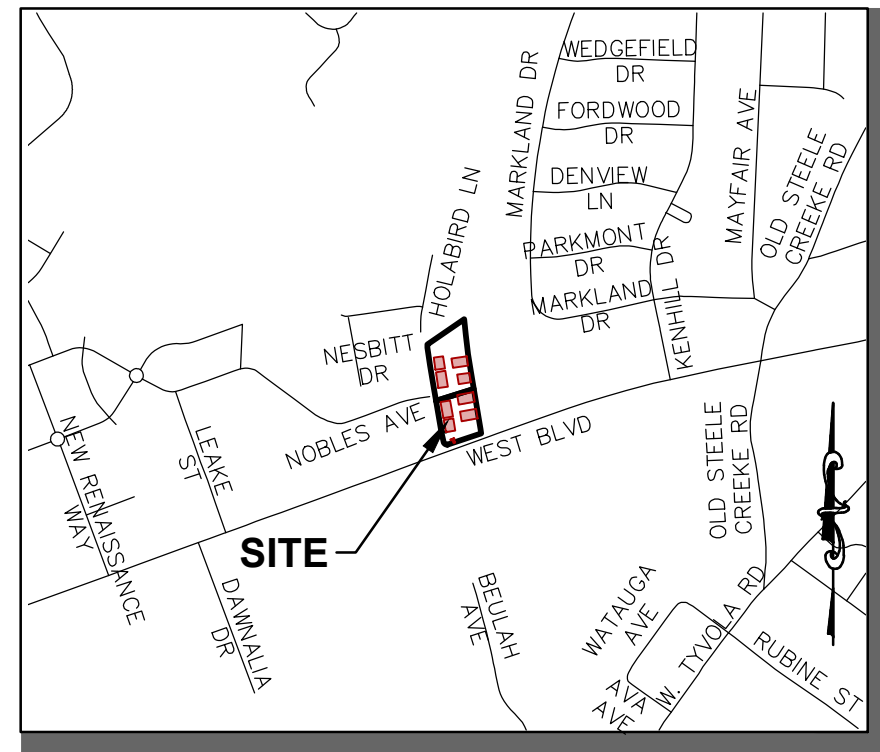
**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** Joe Mangum (704-353-1908)

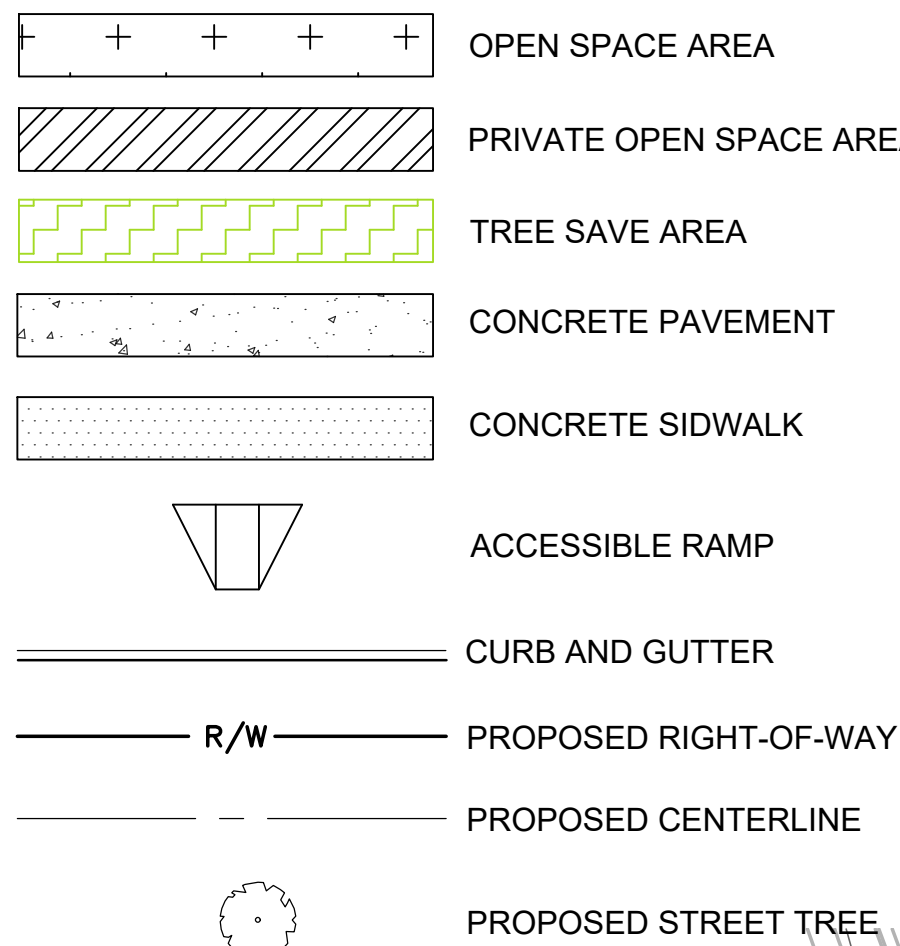


## VICINITY MAP

N.T.S.

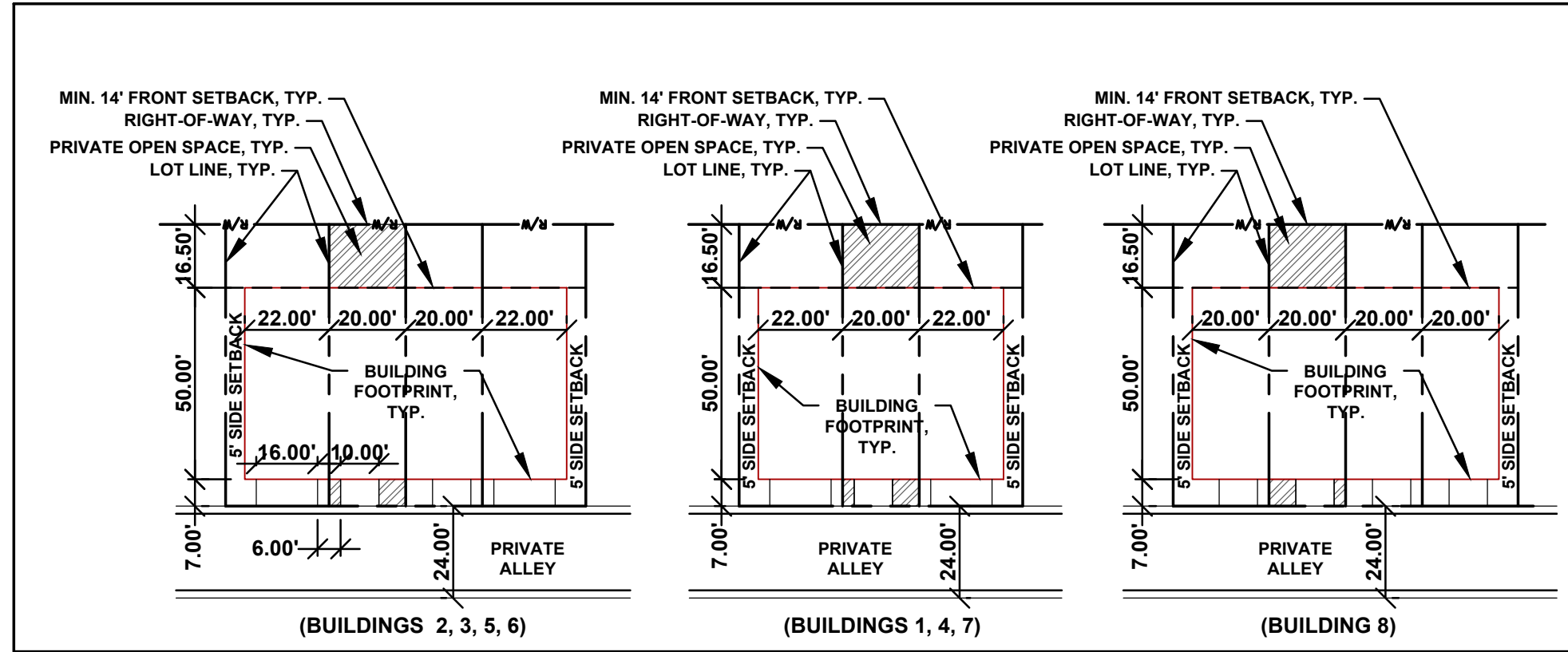


## LEGEND:



## GENERAL NOTES:

- ROAD SECTIONS AND STANDARDS PER CLDSM DETAILS 11.19B & 11.19C.
- ALL ROADS INTERIOR TO THE SITE WILL ACCOMMODATE THE FIRE TRUCK TURNING RADIUS OF 30' INTERIOR RADIUS AND 42' RADIUS.
- FIRE DEPARTMENT ACCESS ROAD SHALL BE CAPABLE OF SUPPORTING 80,000 POUNDS.
- FIRE HYDRANT SHALL BE LOCATED WITHIN 750' TO THE MOST REMOTE POINT OF BUILDING AS TRUCK TRAVELS FOR ALL BUILDINGS.
- ISO-NEEDED FIRE FLOW FOR TOWNHOMES:
  - TOWNHOMES NOT EXCEEDING 2 STORIES IN HEIGHT AND A FIRE AREA OF 2,500 SF OR LESS, THE REQUIRED FIRE FLOW IS 1,500 GPM.
  - TOWNHOMES NOT EXCEEDING 3 STORIES IN HEIGHT AND A FIRE AREA OF 2,500 SF OR LESS, THE REQUIRED FIRE FLOW IS 1,750 GPM.
  - TOWNHOMES NOT EXCEEDING 3 STORIES IN HEIGHT AND A FIRE AREA GREATER THAN 2,500 SF, THE REQUIRED FIRE FLOW IS 2,000 GPM.



TYPICAL TOWNHOME LOT DETAILS

DATE OF SITE PLAN: MARCH 15, 2021  
REZONING PETITION NUMBER: RZP-2021-015

## DEVELOPMENT DATA TABLE

A. SITE ACREAGE	2.556 ACRES
B. TAX PARCELS INCLUDING IN REZONING	1150461 & 11504613
C. EXISTING ZONING	B-1 SCD
D. PROPOSED ZONING	UR2 (CD)
E. EXISTING USE / PROPOSED USE	UNDEVELOPED / TOWNHOMES (SF ATTACHED)
F. PROPOSED NUMBER OF TOWNHOMES	29
G. PROPOSED RESIDENTIAL DENSITY	29 UNITS / 2.556 ACRES = 11.35
H. REQUIRED PARKING	1 SPACE PER UNIT MIN / 2 MAX
I. REQUIRED PARKING SPACES	PER ZONING REQUIREMENTS
J. REQUIRED OPEN SPACE	400 SF / SUBLOT OR 10% OF SITE
K. PROPOSED OPEN SPACE	400 SF / SUBLOT
L. PROPOSED OPEN SPACE	PER ORDINANCE
M. SOLID WASTE	TWO (2) CONTAINERS & RECYCLING AREA AS INDICATED ON REZONING PLAN
N. MAXIMUM BUILDING HEIGHT	40'

## 1. GENERAL PROVISIONS

- THESE DEVELOPMENT STANDARDS FORM A PART OF THE REZONING PLAN ASSOCIATED WITH THE REZONING PETITION FILED BY EXPONENTIAL EQUITY (THE PETITIONER) TO ACCOMMODATE THE DEVELOPMENT OF A SINGLE-FAMILY ATTACHED (TOWNHOME) RESIDENTIAL COMMUNITY ON THE 2.556-ACRE SITE LOCATED ON THE WEST SIDE OF HOLABIRD LANE AND THE NORTH SIDE OF WEST BOULEVARD, AS MORE PARTICULARLY DEPICTED ON THE REZONING SITE PLAN (THE SITE). THE SITE IS COMPRISED OF TAX PARCELS LISTED ABOVE.
- DEVELOPMENT OF THE SITE WILL BE GOVERNED BY THE REZONING SITE PLAN. THESE DEVELOPMENT STANDARDS AND THE APPLICABLE PROVISIONS OF THE CITY OF CHARLOTTE ZONING ORDINANCE (THE ORDINANCE).
- UNLESS THE REZONING PLAN OR THESE DEVELOPMENT STANDARDS ESTABLISH MORE STRINGENT STANDARDS, THE REGULATIONS ESTABLISHED UNDER THE ORDINANCE FOR THE UR-2 ZONING DISTRICT SHALL GOVERN THE DEVELOPMENT AND USE OF THE SITE.
- THE DEVELOPMENT AND STREET LAYOUT DEPICTED ON THE REZONING PLAN AREA ARE SCHEMATIC IN NATURE AND ARE INTENDED TO DEPICT THE GENERAL ARRANGEMENT OF SUCH USES AND IMPROVEMENTS ON THE SITE. ACCORDINGLY, THE ULTIMATE LAYOUT, LOCATIONS AND SIZES OF THE DEVELOPMENT AND SITE ELEMENTS DEPICTED ON THE REZONING PLAN ARE GRAPHIC REPRESENTATIONS OF THE PROPOSED DEVELOPMENT AND SITE ELEMENTS, AND THEY MAY BE ALTERED OR MODIFIED IN ACCORDANCE WITH THE SETBACK, YARD, LANDSCAPING AND TREE SAVE REQUIREMENTS SET FORTH ON THIS REZONING PLAN AND THE DEVELOPMENT STANDARDS PROVIDED, HOWEVER, THAT ANY SUCH ALTERATIONS AND MODIFICATIONS SHALL BE MINOR IN NATURE AND NOT MATERIALLY CHANGE THE OVERALL DESIGN INTENT DEPICTED ON THE REZONING PLAN.
- FUTURE AMENDMENTS TO THE REZONING PLAN AND/OR THESE DEVELOPMENT STANDARDS MAY BE APPLIED FOR THE THEN OWNER(S) OF THE SITE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 6 OF THE ORDINANCE. MINOR ALTERATIONS TO THE REZONING PLAN ARE SUBJECT TO SECTION 6.207 OF THE ORDINANCE.

## 2. PERMITTED USES:

- THE SITE MAY BE DEVOTED ONLY TO A RESIDENTIAL COMMUNITY CONTAINING A MAXIMUM OF TWENTY-NINE (29) SINGLE-FAMILY ATTACHED DWELLING UNITS AND ANY INCIDENTAL AND ACCESSORY USES RELATING THERETO THAT ARE PERMITTED BY-RIGHT OR UNDER PRESCRIBED CONDITIONS IN THE UR-2 ZONING DISTRICT.

## 3. TRANSPORTATION

- AS DEPICTED ON THE REZONING SITE PLAN, THE SITE WILL BE SERVED BY AN INTERNAL PRIVATE DRIVE AND ALLEYS, AND MINOR ADJUSTMENTS TO THE LOCATION OF THE INTERNAL DRIVE AND/OR ALLEYS SHALL BE ALLOWED DURING THE CONSTRUCTION PERMITTING PROCESS.
- A MAXIMUM OF TWO (2) ACCESS POINTS SHALL BE PROVIDED ALONG HOLABIRD LANE AS GENERALLY DEPICTED ON THE REZONING SITE PLAN.
- THE PETITIONER SHALL DEDICATE ALL NECESSARY RIGHTS-OF-WAY IN FEE SIMPLE CONVEYANCE TO THE CITY OF CHARLOTTE BEFORE THE SITE'S FIRST BUILDING CERTIFICATE OF OCCUPANCY IS ISSUED.
  - 50.5 FEET OF RIGHT-OF-WAY MEASURED FROM THE CENTERLINE OF WEST BLVD
  - 25.5 FEET OF RIGHT-OF-WAY MEASURED FROM THE CENTERLINE OF HOLABIRD LANE
- ON-STREET PARKING WILL BE CONSTRUCTED IN ACCORDANCE WITH CLDSM DETAILS 50.09C AND 50.09D.
- AN 8-FOOT BIKE LANE, 3 FOOT BUFFER WITH 5-FOOT TRAVEL LANE ALONG THE SITE'S WEST BLVD FRONTAGE WILL BE CONSTRUCTED.
- THE SITE IS LOCATED ALONG CATS LOCAL BUS ROUTES #10 AND #235 ALONG WEST BLVD. PETITIONER SHALL CONSTRUCT AN ADA COMPLIANT BUS AND SHELTER PAD PER LAND DEVELOPMENT STANDARD 60.03A. THE FINAL LOCATION WILL BE COORDINATED WITH CATS THROUGH THE PERMITTING PROCESS.

## 4. ARCHITECTURAL STANDARDS &amp; NOTES

- PREFERRED EXTERIOR BUILDING MATERIALS: ALL PRINCIPAL AND ACCESSORY BUILDINGS SHALL BE COMPRISED OF A COMBINATION OF PORTIONS OF BRICK NATURAL STONE (OR ITS SYNTHETIC EQUIVALENT), STUCCO, CEMENTITIOUS SIDING, FIBER CEMENT ("HARDIPLANK") AND/OR OTHER MATERIALS APPROVED BY THE PLANNING DIRECTOR.
- PROHIBITED EXTERIOR BUILDING MATERIALS: (1) VINYL SIDING, EXCLUDING VINYL HANDRAILS, WINDOWS, SOFFITS, DOORS OR DOOR TRIM, AND (2) CONCRETE MASONRY UNITS NOT ARCHITECTURALLY FINISHED.
- TO PROVIDE PRIVACY, ALL RESIDENTIAL ENTRANCES WITHIN 15 FEET OF THE SIDEWALKS ALONG HOLABIRD LANE SHALL BE RAISED FROM THE AVERAGE SIDEWALK GRADE A MINIMUM OF 24 INCHES.
- PITCHED ROOFS, IF PROVIDED, SHALL BE SYMMETRICALLY SLOPED NO LESS THAN 4:12. EXCEPT THAT ROOFS FOR PORCHES AND ATTACHED SHEDS MAY BE NO LESS THAN 2:12. UNLESS A FLAT ROOF ARCHITECTURAL STYLE IS EMPLOYED.
- USABLE PORCHES AND STOOPS SHALL FORM A PREDOMINANT FEATURE OF THE BUILDINGS ALONG HOLABIRD LANE AND BE LOCATED ON THE FRONT AND/OR SIDE OF THE BUILDING. STOOPS AND ENTRY-LEVEL PORCHES MAY BE COVERED BUT SHALL NOT BE ENCLOSED. THERE SHALL BE NO MINIMUM STOOP DIMENSION.
- ALL CORNER/END UNITS THAT FACE HOLABIRD LANE SHOULD HAVE A PORCH/STOOP THAT WRAPS A PORTION OF THE FRONT AND SIDE OF THE UNIT OR PROVIDE BLANK WALL PROVISIONS THAT LIMIT THE MAXIMUM BLANK WALL EXPANSION TO 10 FEET ON ALL BUILDING LEVELS.
- ATTACHED DWELLING UNITS SHALL BE LIMITED TO A MAXIMUM OF FIVE (5) UNITS PER BUILDING OR FEWER WHEN FRONTING HOLABIRD LANE.
- WALKWAYS SHOULD BE PROVIDED TO CONNECT ALL RESIDENTIAL ENTRANCES TO SIDEWALKS ALONG PUBLIC AND PRIVATE STREETS.
- DRIVEWAY LENGTHS SHALL EITHER BE BETWEEN FIVE (5) AND SEVEN (7) FEET IN LENGTH OR A MINIMUM OF TWENTY (20) FEET IN LENGTH.

## 5. STREETSCAPING, LANDSCAPING &amp; AMENITIES

- THE PETITIONER SHALL CONSTRUCT A MINIMUM SIX (6) FOOT WIDE SIDEWALK AND EIGHT (8) FOOT WIDE PLANTING STRIP ALONG THE SITE'S FRONTAGE OF HOLABIRD LANE, A MINIMUM EIGHT (8) FOOT WIDE SIDEWALK AND EIGHT (8) FOOT PLANTING STRIP ALONG THE SITE'S FRONTAGE OF WEST BLVD. (RELATIVE TO THE FUTURE BACK-OF-CURB LOCATION) AND A MINIMUM SIX (6) FOOT SIDEWALK ALONG INTERNAL FRONTAGES IN THE LOCATIONS GENERALLY DEPICTED ON THE REZONING PLAN.
- THE PETITIONER MAY SUBDIVIDE THE SITE AND CREATE LOTS WITH NO SIDE OR REAR YARDS AS PART OF A UNIFIED DEVELOPMENT PLAN. IF SUBLOTS ARE CREATED, EACH LOT SHALL HAVE A MINIMUM OF 400 SQUARE FEET OF PRIVATE OPEN SPACE OR 10% OF THE SITE SHALL BE SET ASIDE A USABLE COMMON OPEN SPACE PER ORDINANCE STANDARDS.
- THE PETITIONER SHALL PROVIDE A MINIMUM 3,000 SQUARE FEET OF USABLE COMMON OPEN SPACE, AS GENERALLY DEPICTED IN AREAS INDICATED ON THE REZONING PLAN. THE OPEN SPACE AREAS MAY BE AMENITIZED WITH ELEMENTS SUCH AS BUT NOT LIMITED TO LANDSCAPING, BENCHES OR SEATING AREAS, GARDENS PET AREAS, TABLES, PASSIVE OR ACTIVE RECREATION USES, AND/OR OTHER SIMILAR AMENITIES.
- THE PETITIONER SHALL COMPLY WITH THE TREE ORDINANCE.

## 6. ENVIRONMENTAL FEATURES

- THE PETITIONER SHALL COMPLY WITH THE CHARLOTTE CITY COUNCIL APPROVED AND ADOPTED POST CONSTRUCTION STORMWATER ORDINANCE. THE LOCATION, SIZE AND TYPE OF STORM WATER MANAGEMENT SYSTEMS DEPICTED ON THE REZONING PLAN ARE SUBJECT TO REVIEW AND APPROVAL AS PART OF THE FULL DEVELOPMENT PLAN SUBMITTAL AND ARE NOT IMPLICITLY APPROVED WITH THIS REZONING. ADJUSTMENTS MAY BE NECESSARY IN ORDER TO ACCOMMODATE ACTUAL STORM WATER TREATMENT REQUIREMENTS AND NATURAL SITE DISCHARGE POINTS.
- THE PETITIONER SHALL COMPLY WITH THE TREE ORDINANCE.

## 9. LIGHTING

- ALL FREESTANDING LIGHTING FIXTURES INSTALLED ON THE SITE GREATER THAN TWENTY ONE (21) FEET IN TOTAL HEIGHT (I.E., EXCLUDING DECORATIVE LIGHTING LESS THAN 21 FEET IN HEIGHT THAT MAY BE INSTALLED ALONG INTERNAL DRIVES AND SIDEWALKS AS PEDESTRIAN/LANDSCAPE LIGHTING) SHALL BE FULLY CAPPED AND SHIELDED AND THE ILLUMINATION DOWNWARDLY DIRECTED SO THAT DIRECT ILLUMINATION DOES NOT EXTEND PAST ANY PROPERTY LINE OF THE SITE.

## 10. BINDING EFFECT OF THE REZONING DOCUMENTS AND DEFINITIONS

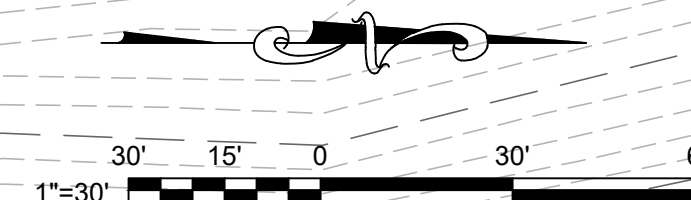
- IF THIS REZONING IS APPROVED, ALL CONDITIONS APPLICABLE TO DEVELOPMENT OF THE SITE IMPOSED UNDER THE REZONING PLAN AND THESE DEVELOPMENT STANDARDS WILL, UNLESS AMENDED IN THE MANNER PROVIDED IN THE ORDINANCE, BE BINDING UPON AND INURE TO THE BENEFIT OF THE PETITIONER AND SUBSEQUENT OWNERS OF THE SITE AND THEIR RESPECTIVE SUCCESSORS IN INTEREST AND ASSIGNS.

## OWNER:

NAME: EXPONENTIAL EQUITY  
ADDRESS: 101 N. TRYON ST., SUITE 629  
CHARLOTTE, NC 28202

## DEVELOPER:

NAME: EXPONENTIAL EQUITY  
CONTACT: BRANDON MAXWELL  
ADDRESS: 101 N. TRYON ST. SUITE 629  
CHARLOTTE, NC 28202  
PHONE #: (800) 580-0069  
EMAIL: brandon@exponential-equity.com



REVNO.	DESCRIPTION	DATE
1	REVISED PER STAFF COMMENTS	03/18/2021

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HOLABIRD LANE & WEST BOULEVARD  
CHARLOTTE, NC

## REZONING PLAN

DATE:	MARCH 2021
MCE PROJ. #	08142-0002
DRAWN	BBB
DESIGNED	BBB
CHECKED	TMM
PROJ. MGR.	TMM

SCALE	1 OF 1
HORIZONTAL:	1" = 30'
VERTICAL:	N/A
REVISION	

STATUS: PRELIMINARY DRAWING  
NOT FOR CONSTRUCTION



## Petition 2021-015 by Exponential Development, LLC

### To Approve:

This petition is found to be **inconsistent** with the *Central District Plan* based on the information from the staff analysis and the public hearing, and because:

- The Plan recommends retail land use for this site.

However, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The proposed residential land use, while inconsistent with the retail use recommended for this site, is consistent with the existing residential development pattern in the area.
- The site has not been developed for retail uses despite being zoned for such use since 1968.
- The proposed density of 11.35 dwelling units per acre is within the General Development Policies (GDP) score of up to 12 dwelling units per acre for this site.
- The site is served by two CATS bus routes and the petition has committed to constructing a bus pad and shelter onsite. Additionally, the site is within ¼ mile of a Mecklenburg County park and ½ mile of a CMS K-8 school.

The approval of this petition will revise the adopted future land use as specified by the *Central District Plan*, from retail to multi-family at up to 12 dwelling units per acre for the site.

### To Deny:

This petition is found to be **inconsistent** with the *Central District Plan* based on the information from the staff analysis and the public hearing, and because:

- The Plan recommends retail land use for this site.

Therefore, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

### Approve or Deny

### Maker:

### 2<sup>ND</sup>:

### Vote:

### Dissenting:

### Recused:



# City of Charlotte

Charlotte-Mecklenburg  
Government Center  
600 East 4th Street  
Charlotte, NC 28202

**Agenda Date:** 6/1/2021

---

**Agenda #:** 13. **File #:** 15-15829 **Type:** Zoning Item

---

## **Rezoning Petition: 2021-022 by OMS Dilworth, LLC**

**Location:** Approximately 1.14 acres located in the western quadrant of the intersection of Cleveland Avenue and Worthington Avenue, east of South Boulevard. (Council District 1 - Egleston)

**Current Zoning:** TOD-M(O) (transit-oriented development - mixed use, optional)

**Proposed Zoning:** TOD-NC (transit-oriented development - neighborhood center)

**Public Hearing Held:** May 17, 2021 - Item #34

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

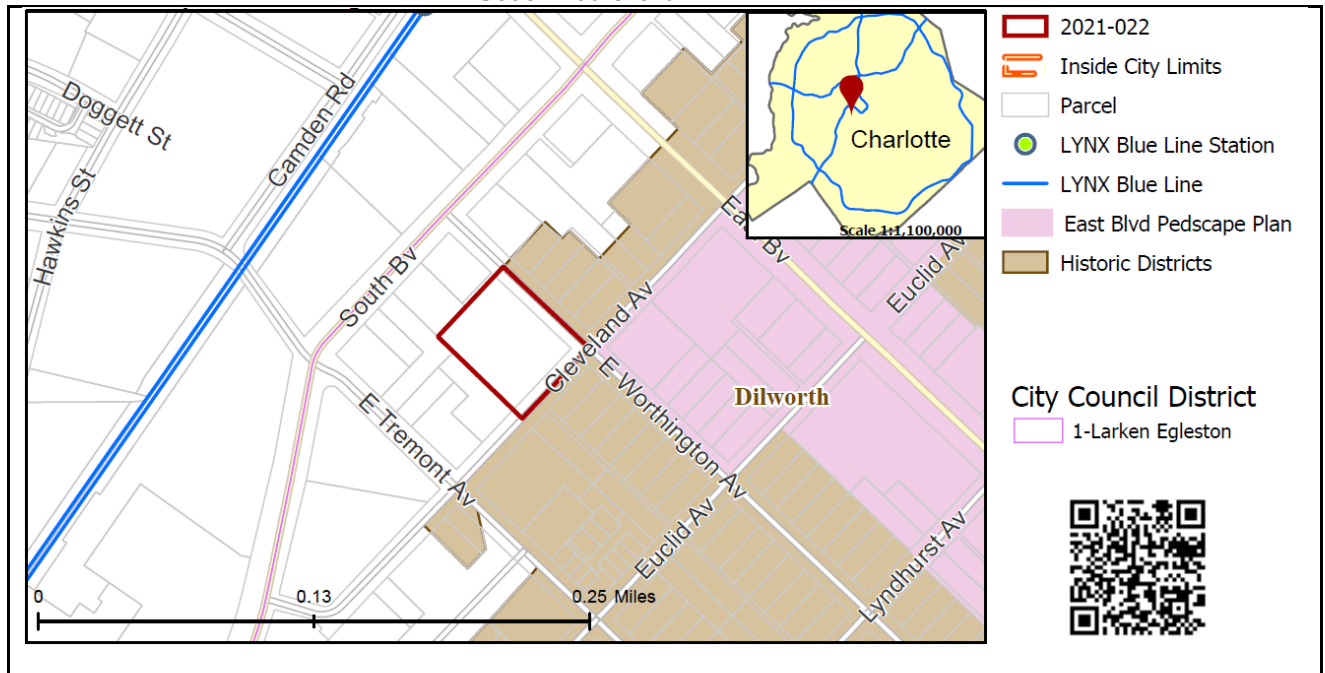
Post-Hearing Staff Analysis  
Statement of Consistency

## REQUEST

Current Zoning: TOD-M(O) (transit oriented development-mixed use, optional)  
Proposed Zoning: TOD-NC (transit oriented development-neighborhood center)

## LOCATION

Approximately 1.14 acres located in the western quadrant of the intersection of Cleveland Avenue and Worthington Avenue, east of South Boulevard.



## SUMMARY OF PETITION

The petition proposes to allow all transit supportive uses per TOD-NC (transit oriented development-neighborhood center) zoning for a 1.14 acre site that is within 0.25 mile of the East/West Transit Station on the LYNX Blue Line.

## PROPERTY OWNER

OMS Dilworth LLC

## PETITIONER

OMS Dilworth

## AGENT/REPRESENTATIVE

Collin Brown and Brittany Lins/Alexander Ricks, PLLC

## COMMUNITY MEETING

Meeting is not required.

## STAFF RECOMMENDATION

Staff recommends approval of this petition.

### Plan Consistency

The petition is **inconsistent** with the *South End Transit Station Area Plan* recommended retail land use, as amended by petition 2014-002.

### Rationale for Recommendation

- The subject site is within 0.25 mile of the East/West Boulevard Station on the LYNX Blue Line.
- The proposal permits a site previously used for industrial uses to convert to transit supportive land uses.
- Use of conventional TOD-NC (transit oriented development – neighborhood center) zoning applies standards and regulations

to create the desired form and intensity of transit supportive development, and a conditional rezoning is not necessary.

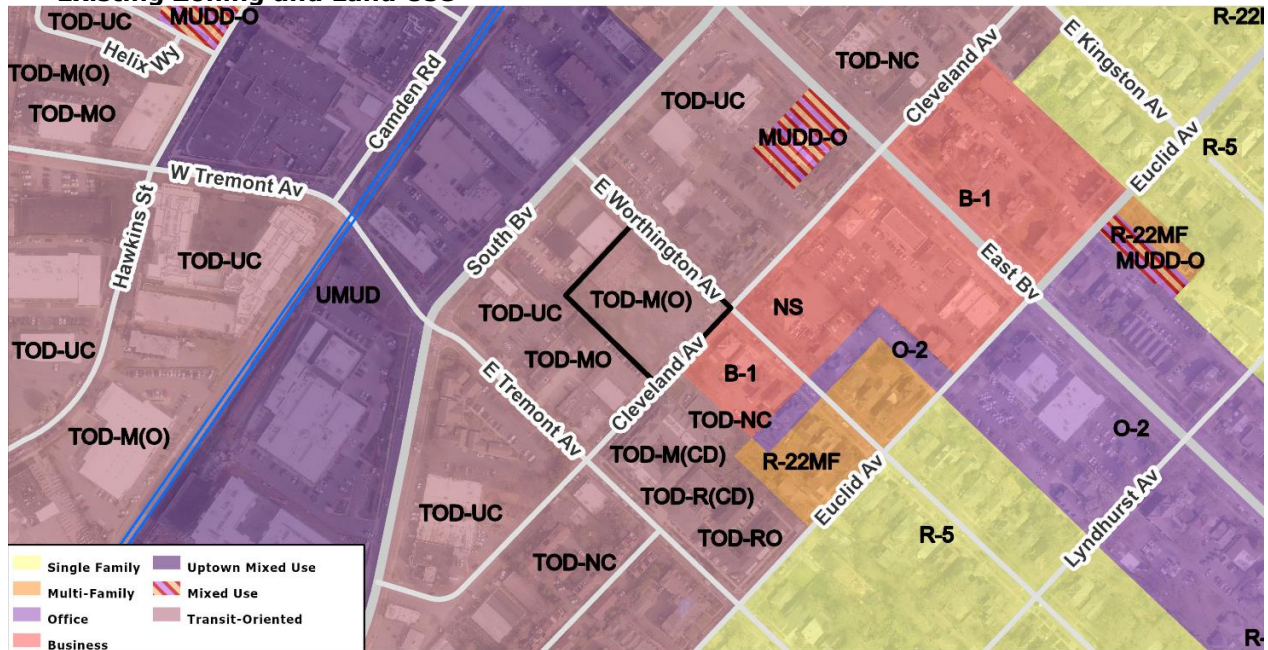
The approval of this petition will revise the adopted future land use as specified by the *South End Transit Station Area Plan*, from current recommended retail use to new recommended transit oriented development use for the site.

## PLANNING STAFF REVIEW

- **Proposed Request Details**

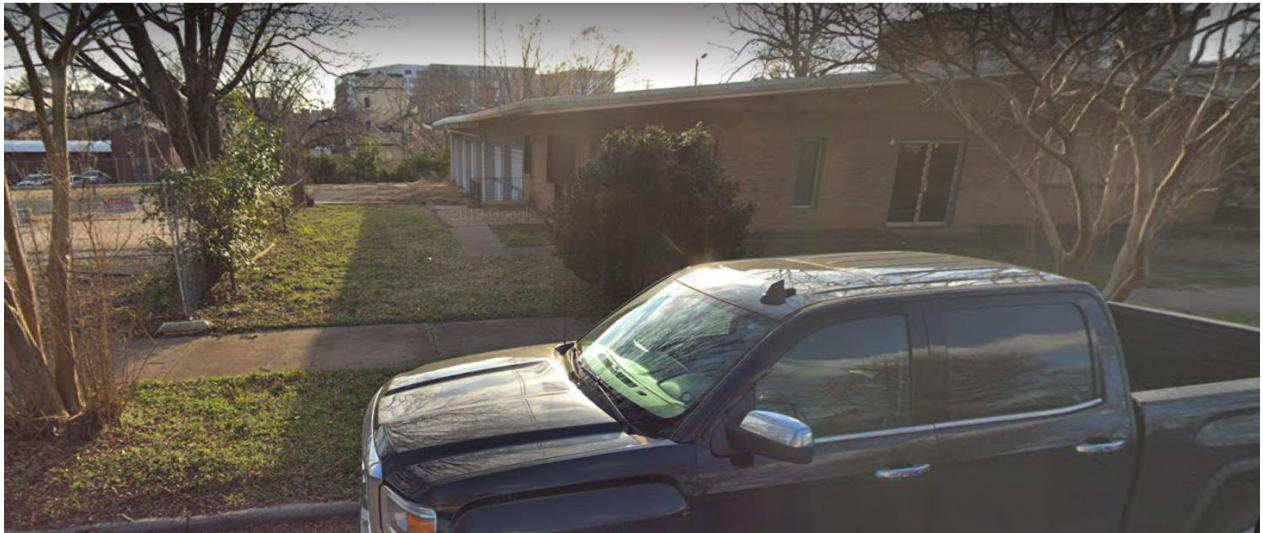
This is a conventional rezoning petition with no associated site plan. Uses allowed in the TOD-NC district include residential, retail, and civic uses.

- **Existing Zoning and Land Use**



- The site is developed with an industrial building and associated parking and is surrounded by a mix of residential and non-residential uses in various zoning districts.
- The site was rezoned from B-1 to TOD-R(CD) via petition 2006-162 to allow up to 80 multi-family residential units.
- Rezoning petition 2013-068 proposed a TOD-R(CD) site plan amendment to revise the layout and change the product type to multi-family residential with up to 33 dwelling units. The request was withdrawn.
- Rezoning petition 2014-002 rezoned the site from TOD-R(CD) to TOD-M(O) to allow a 130-room hotel with accessory uses.





The site is developed with an industrial building and associated parking constructed in 1969.



The site is developed with an industrial building and associated parking.

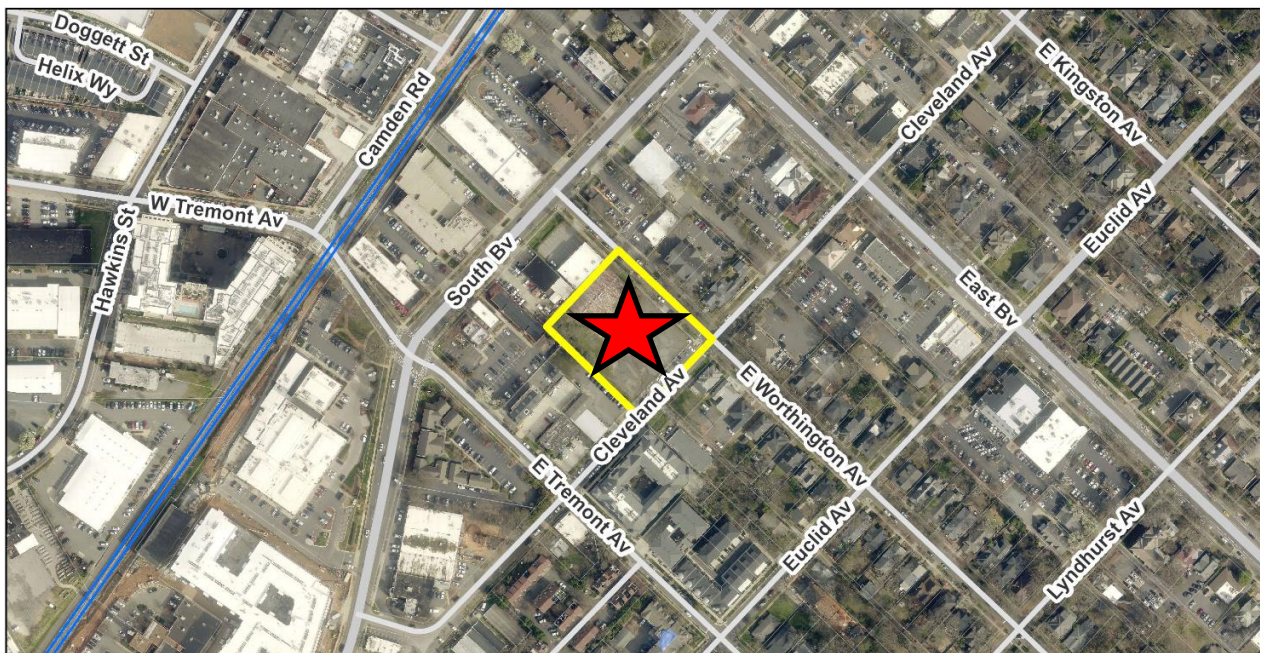


North are residential and institutional uses.





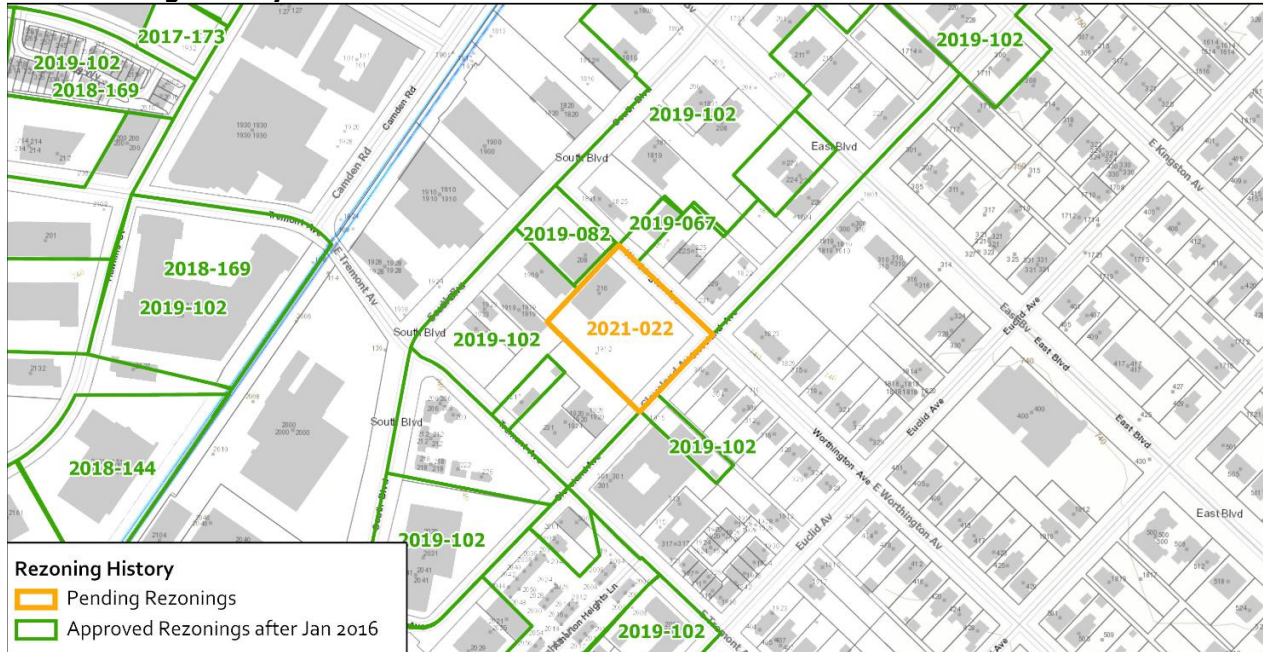
Along South Boulevard are a mix of residential and non-residential uses.



The rezoning site (denoted by the red star) is surrounded by a mix of residential and non-residential uses.

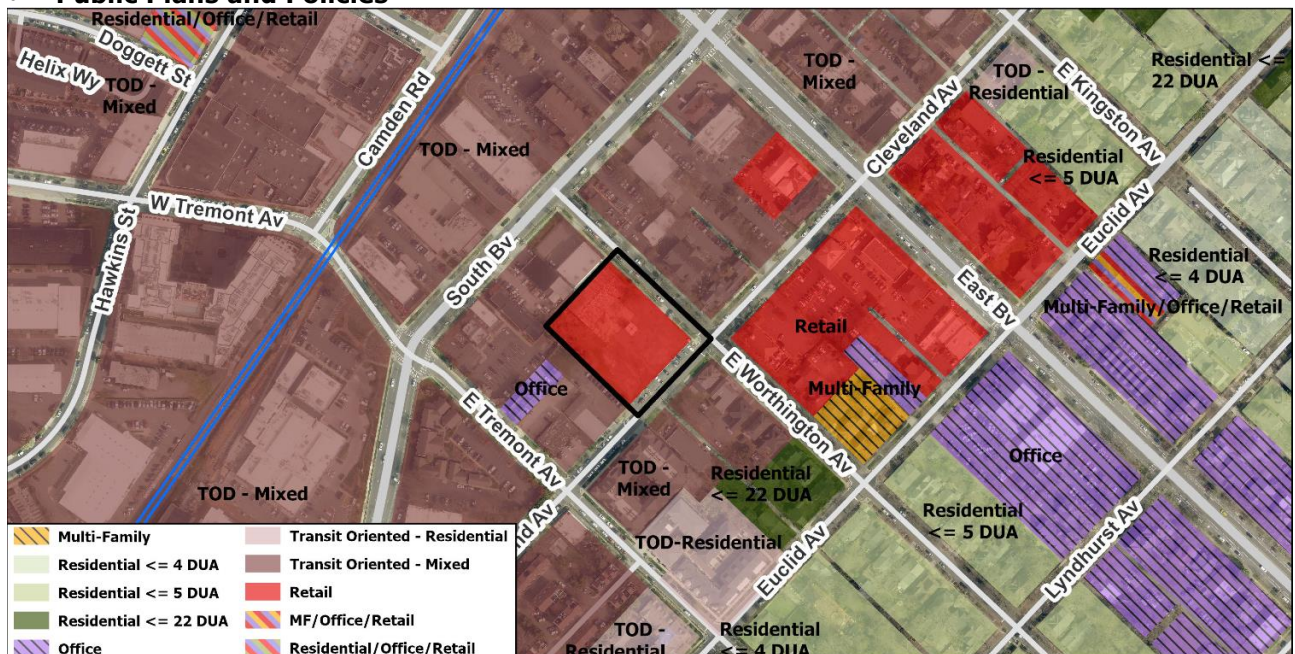


### • Rezoning History in Area



Petition Number	Summary of Petition	Status
2019-102	Rezoned 1,771.18 acres under a range of zoning districts to TOD-UC, TOD-NC, TOD-CC or TOD-TR.	Approved
2019-082	Rezoned 0.32 acres from B-1 to TOD-UC.	Approved
2019-067	Rezoned 0.15 acres from B-1 to TOD-UC.	Approved
2018-169	Text amendment to modify TOD requirements.	Approved
2018-144	Rezoned 2.21 acres from MUDD-O to TOD-M(O).	Approved

### • Public Plans and Policies



- The South End Transit Station Area Plan (2005) recommends retail, as amended by petition 2014-002.

- **TRANSPORTATION SUMMARY**

- The site is located on two City-maintained local roads (Worthington Avenue and Cleveland Avenue). The site is located less than ¼ mile south of LYNX East/West Blue Line Station. The site was previously rezoned for a hotel with petition 2014-002 and is now requesting a TOD-NC zoning and will be subject to transportation improvements in accordance with the TOD Ordinance and the adopted CDOT Streets Map. CDOT will work with the petitioner during the permitting process to provide additional forms of connectivity, as applicable, supporting the types of development in the TOD-zoned areas.
- **Active Projects:**
  - No projects near the site.
- **Transportation Considerations**
  - No outstanding issues. See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Vehicle Trip Generation:**
  - Current Zoning:
  - Existing Use: Vacant
  - Entitlement: 1,045 trips per day (based on 130-room hotel; rezoning petition 2014-002).
  - Proposed Zoning: Too many uses to determine (based on proposed TOD-NC).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Solid Waste Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Charlotte-Mecklenburg Schools:** The conventional district allows a variety of uses; therefore, the impact on local schools cannot be determined. See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 8-inch water distribution main located along E Worthington Ave and via a 6-inch main located along Cleveland Ave. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along E Worthington Ave. See advisory comments at [www.rezoning.org](http://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](http://www.rezoning.org).
- **Mecklenburg County Parks and Recreation Department:** No comments submitted.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Urban Forestry:** No outstanding issues.

---

**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

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

## Petition 2021-022 by OMS Dilworth

### To Approve:

This petition is found to be **inconsistent** with the *South End Transit Station Area Plan*, based on the information from the staff analysis and the public hearing, and because:

- The *South End Transit Station Area Plan* recommends retail land use, as amended by 2014-002.

(However, we find) this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The subject site is within 0.25 mile of the East/West Boulevard Station on the LYNX Blue Line.
- The proposal permits a site previously used for industrial uses to convert to transit supportive land uses.
- Use of conventional TOD-NC (transit oriented development – neighborhood center) zoning applies standards and regulations to create the desired form and intensity of transit supportive development, and a conditional rezoning is not necessary.

The approval of this petition will revise the adopted future land use as specified by the *South End Transit Station Area Plan*, from current recommended retail use to new recommended transit oriented development use for the site.

### To Deny:

This petition is found to be **inconsistent** with the *South End Transit Station Area Plan*, based on the information from the staff analysis and the public hearing, and because:

- The *South End Transit Station Area Plan* recommends retail land use, as amended by 2014-002.

(Therefore, we find) this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

#### Approve or Deny

#### Maker:

2<sup>ND</sup>:

#### Vote:

#### Dissenting:

#### Recused:





**Agenda Date:** 6/1/2021

---

**Agenda #:** 14. **File #:** 15-15830 **Type:** Zoning Item

---

## **Rezoning Petition: 2021-030 by Lucern Capital Partners**

**Location:** Approximately 2.55 acres located on the east side of Research Drive, north of West W. T. Harris Boulevard, and west of Interstate 85. (Council District 4 - Johnson)

**Current Zoning:** O-1 (CD) (office, conditional)

**Proposed Zoning:** RE-3(O) (research, optional)

**Public Hearing Held:** May 17, 2021 - Item #35

**Staff Resource:** [Michael Russell](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition.

**Attachments:**

Post-Hearing Staff Analysis

Site Plan

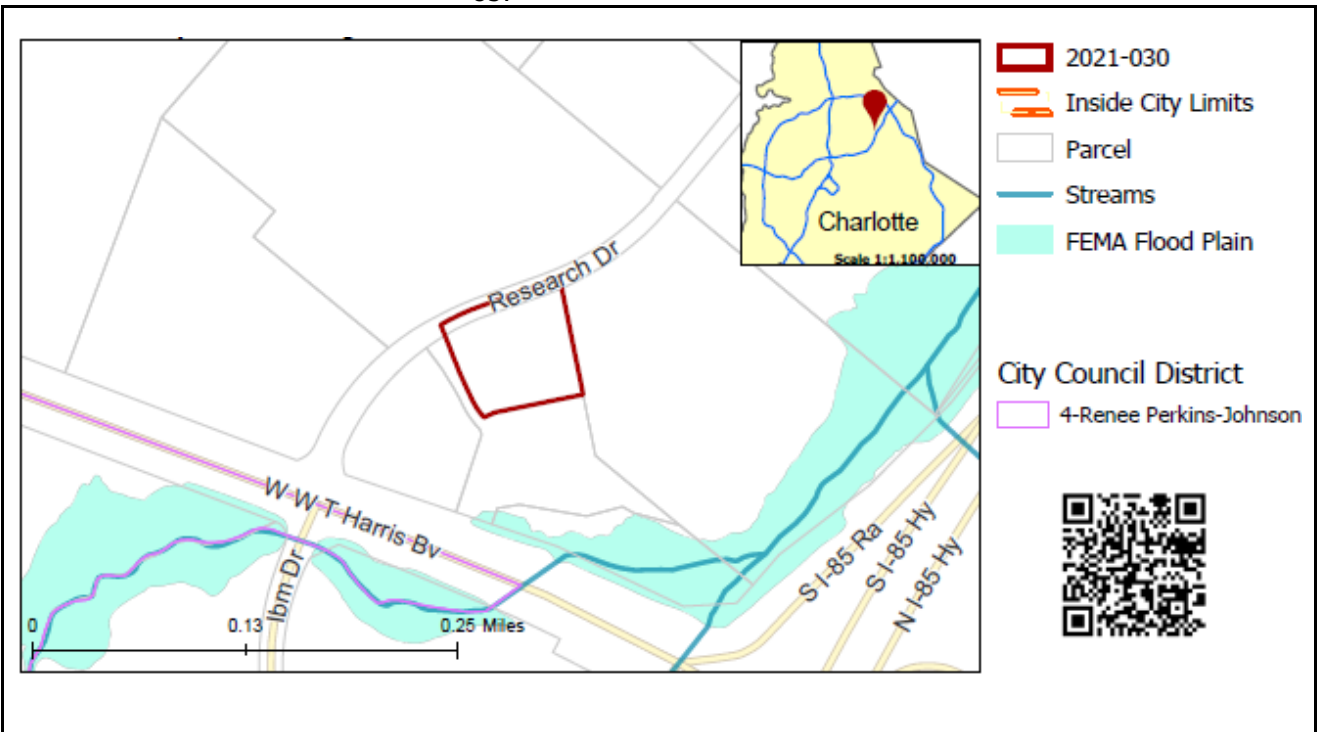
Statement of Consistency

**REQUEST**

Current Zoning: O-1(CD) (office, conditional)  
Proposed Zoning: RE-3(O) (research, optional)

**LOCATION**

Approximately 2.55 acres located on the east side of Research Drive, north of West W. T. Harris Boulevard, and west of Interstate 85.



**SUMMARY OF PETITION**

The petition proposes to allow up to 96 multi-family dwelling units OR 96 hotel rooms in an existing extended stay hotel.

**PROPERTY OWNER**  
**PETITIONER**  
**AGENT/REPRESENTATIVE**

Uptown Hospitality, LLC  
Lucern Capital Partners  
Bridget Grant, Moore & Van Allen, PLLC

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 2

**STAFF**  
**RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **inconsistent** with the *University City Area Plan (2010)* recommendation of office/retail use.

Rationale for Recommendation

- Multi-family residential in this area will help to fulfill the area plan's goal of expanding housing options in the university area.
- The site's strategic location off West WT Harris Boulevard with appropriate tree-lined buffers between adjacent businesses make it an ideal location for hotel use or for multi-family residential.
- Multi-family residential on this site is supported by the amenities and retail on the eastern side of I-85.

- The petition promotes adaptive reuse of the existing extended stay hotel, and all proposed changes, such as new lighting or future walkways, will serve to improve the site and better the pedestrian experience.

The approval of this petition will revise the adopted future land use as specified by the *University City Area Plan (2010)*, from office/retail to residential/office/retail for the site.

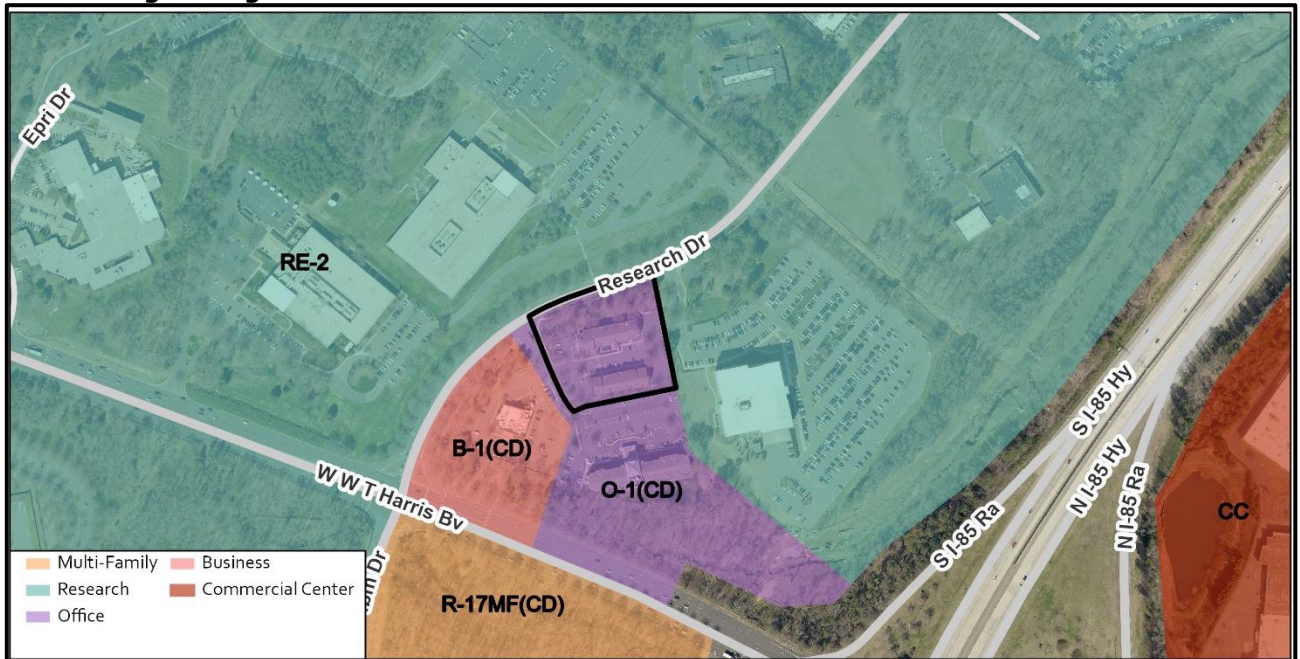
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

- Allows up to 96 multi-family dwelling units OR 96 hotel rooms.
- Adaptive reuse of an existing hotel.
- Optional provisions include:
  - Allow parking to be permitted between the building and the street as generally depicted on the site plan.
  - Maintain the existing planting strip and sidewalk along Research Drive.
- Dedicates 41-feet of right-of-way from centerline of Research Drive to accommodate for a future 8-foot planting strip and 12-foot multi-use path.
- Provides a minimum of 800 square-feet of open space with amenities.
- Commits to new detached and attached lighting be full cut-off type lighting fixtures.

### • Existing Zoning and Land Use



The surrounding land uses include hotels, office, and restaurant uses.





The subject property denoted by red star.



The subject property from Research Drive.





The property to the south along Research Drive is developed with a hotel.

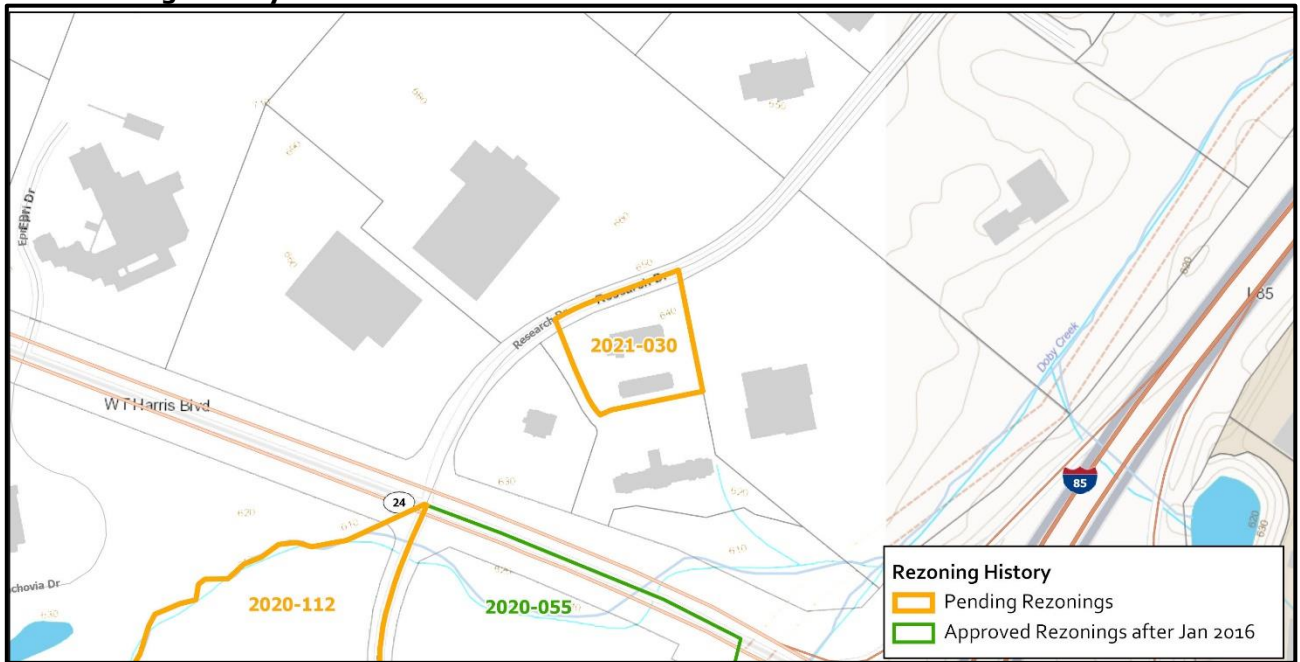


The property to the west along Research drive is developed with a restaurant.



The property to the east is developed with an office use.

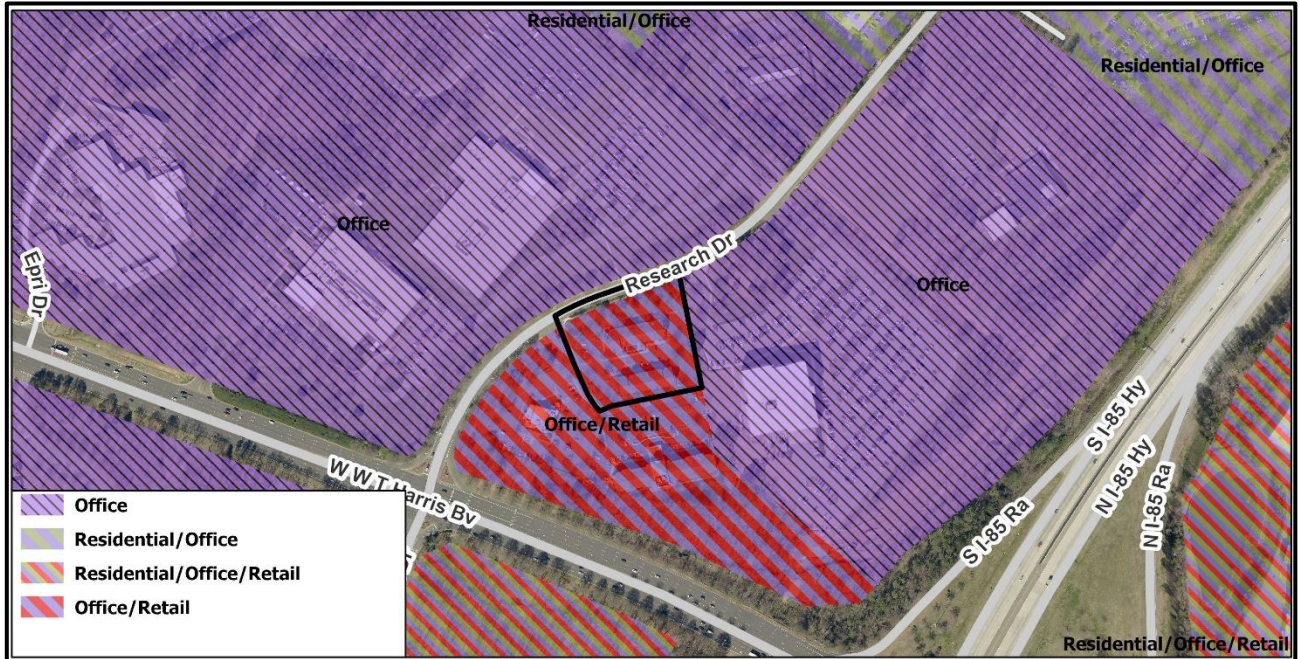
- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2020-055	Rezoned 27.97 acres to allow up to 300 multi-family units.	Approved
2020-112	Proposes to rezone 57.2 acres to allow up to 575 multi-family units, and 660,000 square-feet of non-residential uses.	Pending



- **Public Plans and Policies**



- The *University City Area Plan (2010)* calls for office/retail for the site.

- **TRANSPORTATION SUMMARY**

- The site is located on Research Drive, a City-maintained minor thoroughfare, north of the intersection at W.T Harris Boulevard (State-maintained major thoroughfare). The existing trip generation is 650 vehicle trips per day and the proposed use has a trip generation of 525 trips per day, having a net reduction in trips. The existing vehicular network currently meets City standards, and the petitioner has committed to dedicate right-of-way for a future 12-foot shared-use path across the site's frontage to support the City of Charlotte's WALKS and BIKES policies and will be constructed as a part of the I-85 North Bridge Project. In support of Charlotte WALKS and Vision Zero policies, an existing pedestrian refuge street crossing on Research Drive, in front of the proposed access, will remain. All CDOT items are addressed.
- **Active Projects:**
- I-85 North Bridge
  - Construct new street across I-85 connecting JW Clay Boulevard to Research Drive
  - Status: Utility Relocation
  - PM: Leslie Bing
  - <https://charlottenc.gov/Projects/Pages/I85NorthBridge.aspx>

- **Transportation Considerations**

- ~~See Outstanding Issues, Note 1.~~ Addressed

- **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 650 trips per day (based on 95-room hotel).

Entitlement: 650 trips per day (based on 95-room hotel).

Proposed Zoning: 650 trips per day (based on 95-room hotel).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No outstanding issues.
- **Charlotte Department of Solid Waste Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate zero students, while the development allowed under the proposed zoning may produce 12 students. Therefore, the net increase in the number of students generated from existing zoning to proposed is 12 students.

- The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
  - Governor's Village K-8 remains at 101%
  - Julius L. Chambers High remains at 126%
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 12-inch water distribution main located along IBM Drive. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **City Arborist:** No comments submitted.
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No outstanding issues.
- **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:** No outstanding issues.

### OUTSTANDING ISSUES

#### Transportation

- ~~1. Revise site plan to call-out the existing pedestrian refuge crossing across Research Drive to~~



remain. **Addressed**

#### Land Use

- ~~2. Clarify that the proposed use is only residential dwelling units or only a hotel and not a mix of those uses.~~ **Addressed**
- ~~3. Clarify optional provision 2a. to limit parking between the buildings and the street to state the existing parking lots between the buildings and the site access road.~~ **Addressed**

**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** Michael Russell (704) 353-0225





**LUCERN CAPITAL PARTNERS**  
218 BROAD ST  
RED BANK, NEW JERSEY 07701  
732.875.1190

100 N TRYON ST #4700  
CHARLOTTE, NORTH CAROLINA 28202  
704.331.1000

**RESEARCH DR.  
ADAPTIVE  
RE-USE**

8710 RESEARCH DRIVE  
CHARLOTTE, NORTH CAROLINA 28262

8710 RESEARCH DRIVE  
CHARLOTTE, NORTH CAROLINA 28262

21002

01/14/2021

## DEFENDING PLAN

## REVISIONS

1	04/12/21	FIRST REVISION	CM/T
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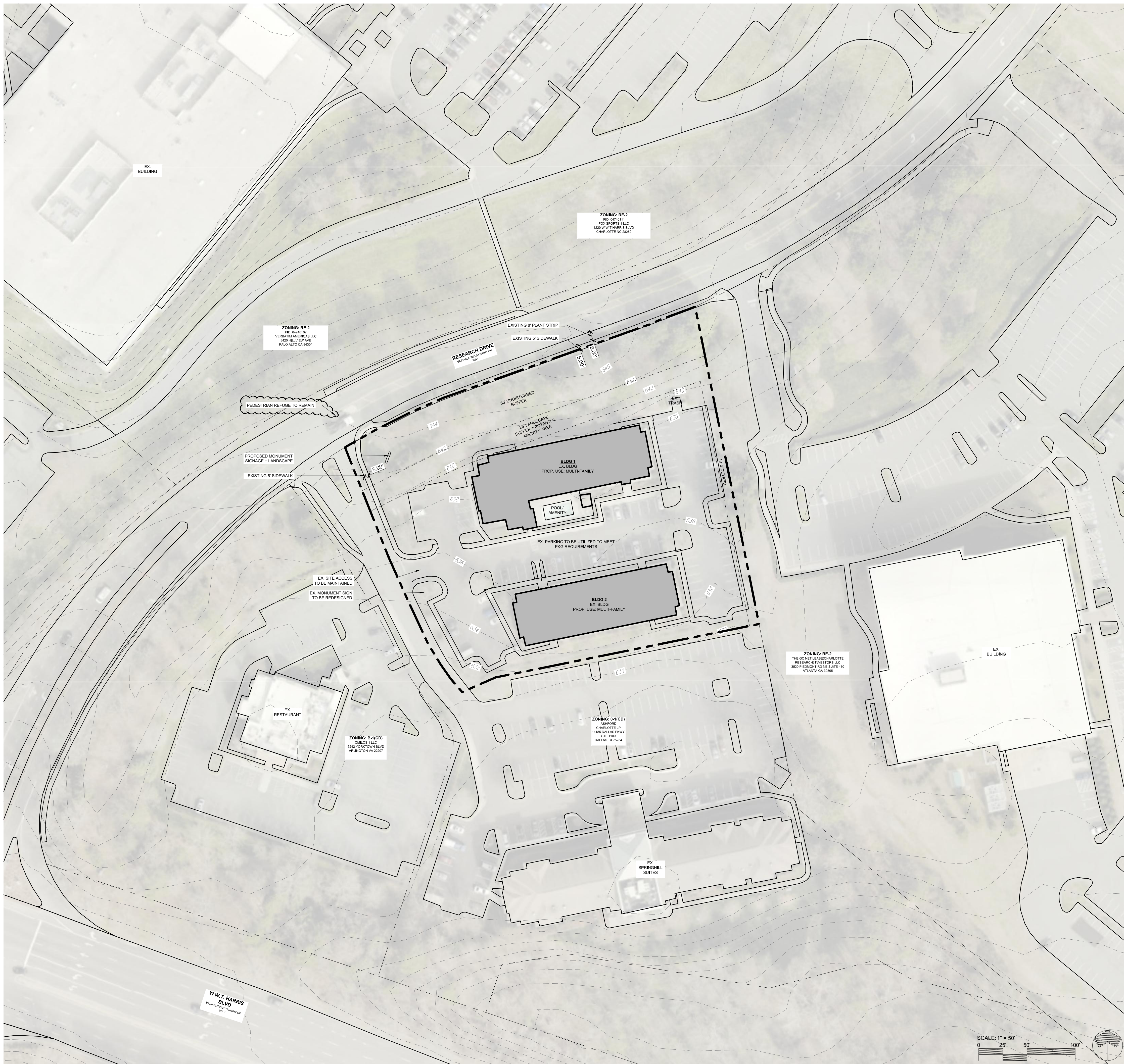
DRAWN BY: T.W.

AS INDICATED

REZONING PLAN

ORIGINAL SHEET SIZE: 24"

ORIGINAL SHEET SIZE: 24"



Plotted: 21002-REZONING PLAN1.dwg / 5/20/2021 1:20 PM

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## Petition 2021-030 by Lucern Capital Partners

### To Approve:

This petition is found to be inconsistent with the *University City Area Plan* (2010) based on the information from the staff analysis and the public hearing, and because:

- The plan recommends office/retail uses.

However, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- Multi-family residential in this area will help to fulfill the area plan's goal of expanding housing options in the university area.
- The site's strategic location off West WT Harris Boulevard with appropriate tree-lined buffers between adjacent businesses make it an ideal location for hotel use or for multi-family residential.
- Multi-family residential on this site is supported by the amenities and retail on the eastern side of I-85.
- The petition promotes adaptive reuse of the existing extended stay hotel, and all proposed changes, such as new lighting or future walkways, will serve to improve the site and better the pedestrian experience.

The approval of this petition will revise the adopted future land use as specified by the *University City Area Plan* (2010), from office/retail to residential/office/retail for the site.

### To Deny:

This petition is found to be inconsistent with the *University City Area Plan* (2010) based on the information from the staff analysis and the public hearing, and because:

- The plan recommends office/retail uses.

However, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by the Zoning Committee)

### Motion:

### Approve or Deny

### Maker:

2<sup>ND</sup>:

### Vote:

### Dissenting:

### Recused:



**Agenda Date:** 6/1/2021

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**Agenda #:** 11. **File #:** 15-15831 **Type:** Zoning Item

---

## **Rezoning Petition: 2021-031 by Halley Douglas, Inc.**

**Location:** Approximately 0.23 acre located on the north side of Laurel Avenue, east of Providence Road, and west of Randolph Road. (Council District 1 - Egleston)

**Current Zoning:** R-5 (single-family residential)

**Proposed Zoning:** R-8 (CD) (single-family residential, conditional)

**Public Hearing Held:** May 17, 2021 - Item #36

**Staff Resource:** [Claire Lyte-Graham](#)

**Staff Recommendation:**

Staff recommends APPROVAL of this petition upon resolution of outstanding issues related to site and building design.

**Attachments:**

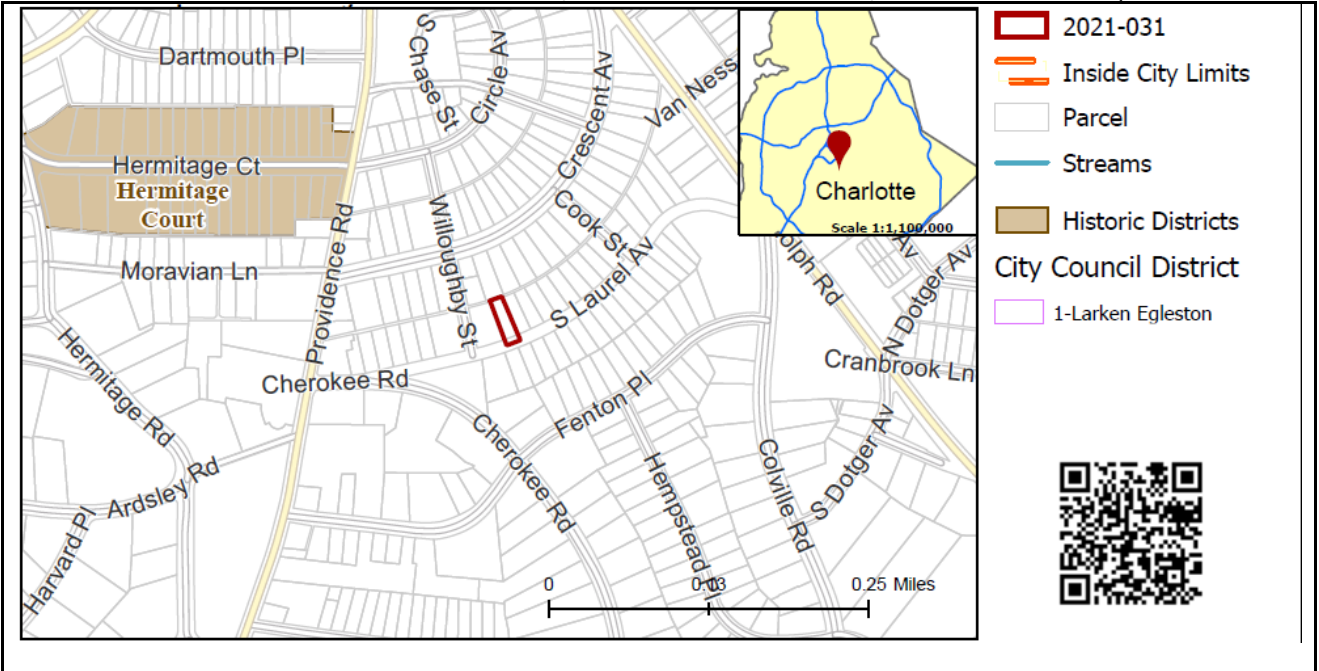
Post-Hearing Staff Analysis  
Site Plan  
Statement of Consistency

**REQUEST**

Current Zoning: R-5 (single family residential)  
Proposed Zoning: R-8(CD) (single family residential, conditional)

**LOCATION**

Approximately 0.23 acres located on the north side of Laurel Avenue, east of Providence Road, and west of Randolph Road.



**SUMMARY OF PETITION**

The petition proposes to allow residential uses on a parcel, including a duplex on a lot developed with a single family residence constructed in 1925.

**PROPERTY OWNER**

Vala Reza Nikrooz

**PETITIONER**

Halley Douglas, Inc.

**AGENT/REPRESENTATIVE**

Dave Murray/The Odom Firm, PLLC

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 4

**STAFF  
RECOMMENDATION**

Staff recommends approval of this petition upon resolution of the outstanding issue pertaining to site and building design.

Plan Consistency

The petition is **inconsistent** with the *Elizabeth Area Plan* recommended residential up to 5 units per acre.

Rationale for Recommendation

- The site directly abuts an existing multi-family structure that is zoned R-22MF.
- The rezoning site is immediately surrounded by single-family residential homes, quadruplexes, apartments and condominiums.
- The request is consistent with the development patterns in the immediate area.
- The R-8(CD) petition seeks to allow all residential uses, including a duplex, on the rezoning lot. The project will provide a minimum



setback and yards that are compatible with the surrounding pattern of development.

The approval of this petition will revise the adopted future land use as specified by the *Elizabeth Area Plan*, from current recommended residential up to 5 units per acre use to new recommended residential up to 8 units per acre use for the site.

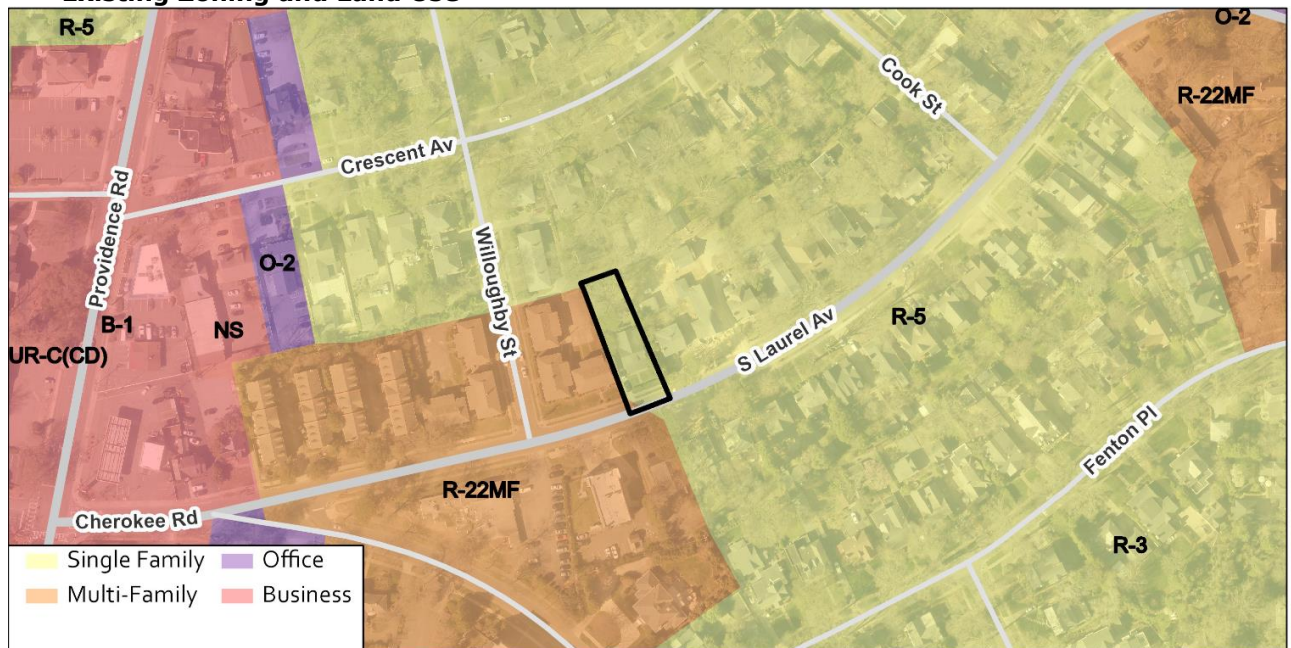
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

- Allow residential uses as permitted in the R-8 district, including a duplex.
- Illustrates building envelope.
- Notes proposed height will be per ordinance.
- Proposes access from S. Laurel Avenue. Identifies access point onto an abutting alleyway to the north.
- Notes existing sidewalk, planting strip and curb will remain in current locations.
- Notes permitted building materials shall comprise of brick, cedar shake, wood siding, fiber cement siding, stucco, and masonry.
- Notes permitted roof materials are asphalt shingles, composition shingles, wood shingles, tin, standing seam metal, and wood shakes.
- States walkways shall be provided to connect all residential entrances to sidewalks along public and private streets. Such walkways may be via a driveway.
- Notes that any garage constructed on the site will be accessed via the alley way shown on the site plan.
- States only one entry door to the principal structure shall front South Laurel Avenue in order to promote the appearance of a detached dwelling.

### • Existing Zoning and Land Use



- The rezoning site is developed with a single family residence built in 1925 (pic below). The site is immediately surrounded by single family neighborhoods and multifamily residential developments on properties zoned R-3, R-5, and R-22MF. Along Providence Road are residential and non-residential uses in various zoning districts.

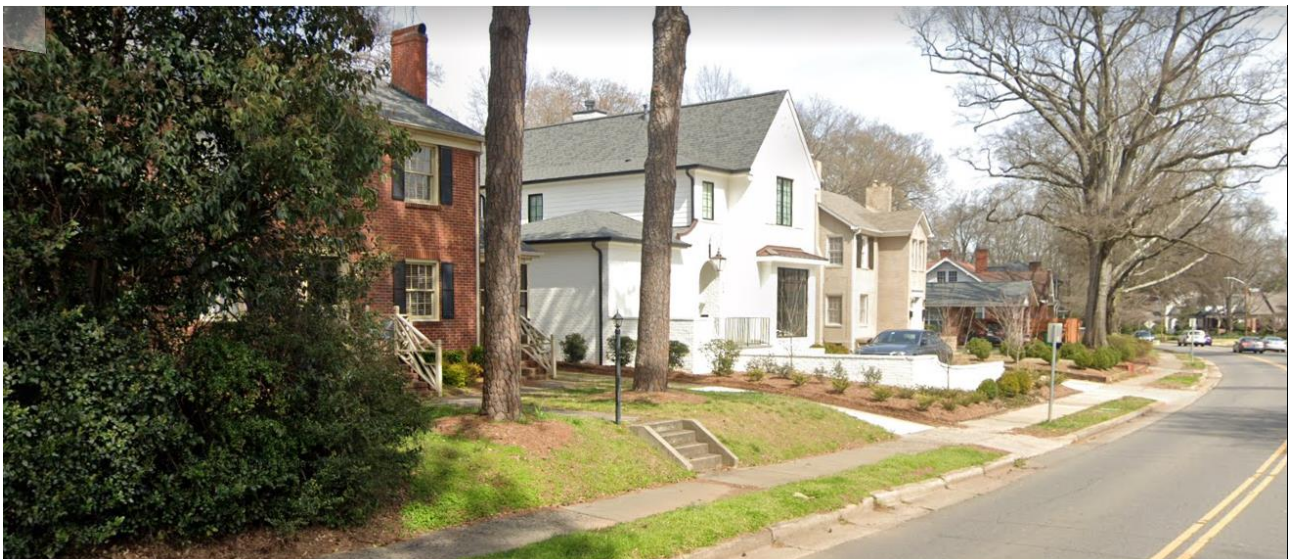




The rezoning site is developed with a single family residential home constructed in 1925.



Directly west are multifamily residential developments.

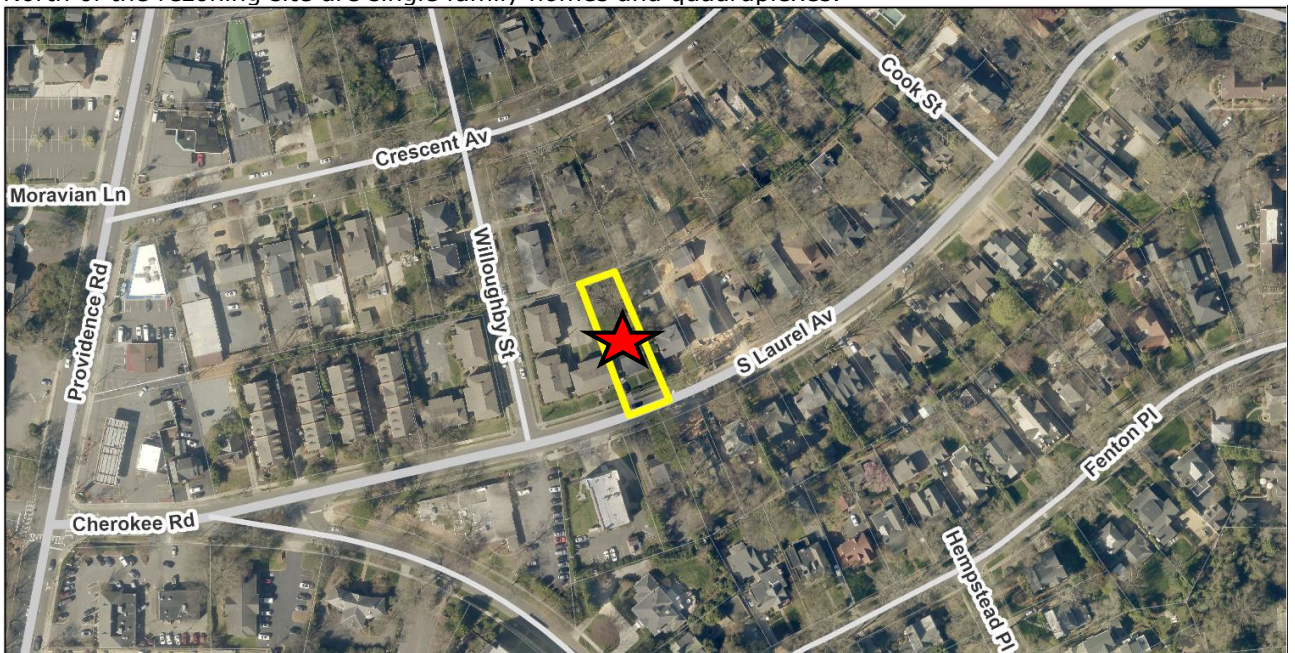


Directly east are single family homes.





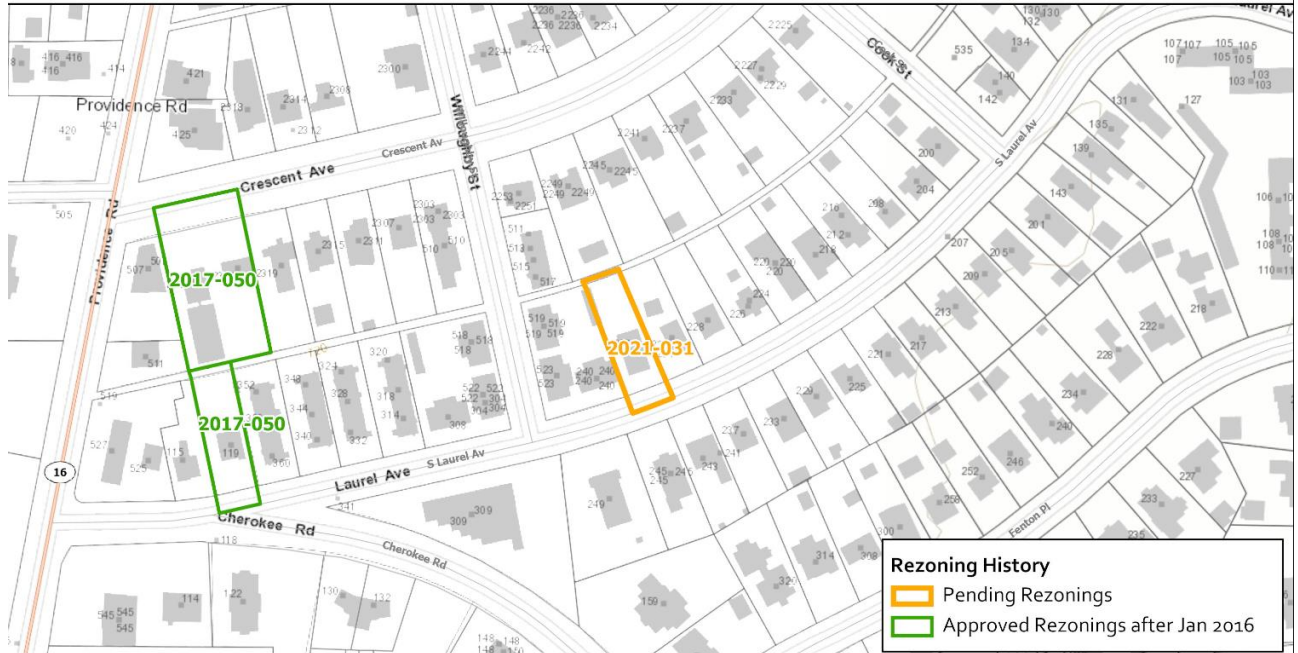
North of the rezoning site are single family homes and quadruplexes.



The rezoning site (denoted by red star) is immediately surrounded by single family residential homes and multifamily residential homes.

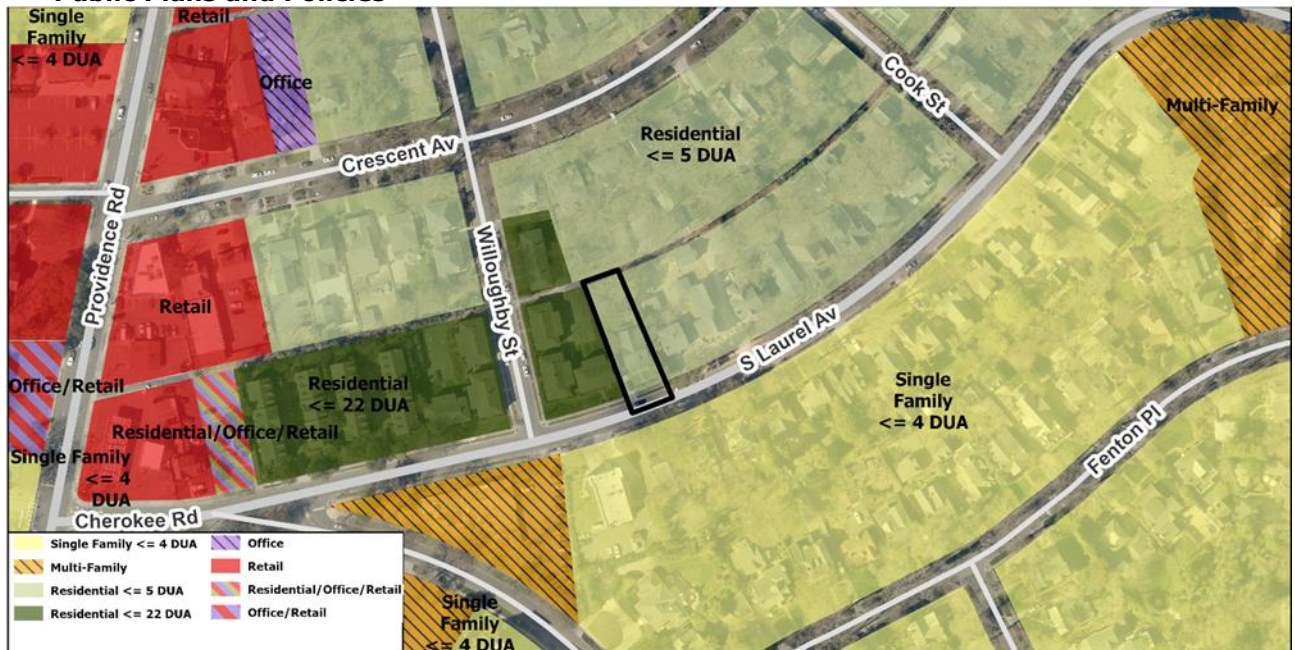


- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2017-050	Rezoned 0.77 acres from B-1 and O-2 to NS.	Approved

- Public Plans and Policies**



- The *Elizabeth Area Plan* (2011) recommends residential uses up to 5 dwelling units per acre.



- **TRANSPORTATION SUMMARY**

- The site is located on a City-maintained minor thoroughfare (South Laurel Avenue). The proposed use will increase the vehicle trips per day from 10 trips existing to 20 trips per day. Additionally, the site will utilize the existing pedestrian network along South Laurel Avenue. CDOT has no outstanding items with this petition.
- **Active Projects:**
  - N/A
- **Transportation Considerations**
  - No outstanding issues.
- **Vehicle Trip Generation:**
  - Current Zoning:
    - Existing Use: 10 trips per day (based on single family residence).
    - Entitlement: 10 trips per day (based on single family residence).
  - Proposed Zoning: 20 trips per day (based on 2 dwellings).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate 0 students, while the developed allowed under the proposed zoning may produce 0 students. Therefore, the net increase in the number of students generated from existing zoning to proposed is 0.
  - The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
    - Eastover Elementary remains at 98%
    - Sedgefield Middle remains at 72%
    - Myers Park High remains at 121%.
  - See advisory comments at [www.rezoning.org](http://www.rezoning.org).
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 6-inch water distribution main located along Laurel Ave. Charlotte Water has sanitary sewer system infrastructure accessible for the rezoning boundary via an existing 8-inch gravity sewer main located along Laurel Ave. See advisory comments at [www.rezoning.org](http://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](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Urban Forestry:** No outstanding issues.

**OUTSTANDING ISSUES**

Site and Building Design

1. Dimension and label the setback from the correct location. **Not addressed.**
2. ~~Remove the driveway from the site plan. Arrows illustrating points of ingress/egress may remain on the plan.~~ **Addressed.**
3. ~~Under Development Data note that height will be per ordinance.~~ **Addressed.**

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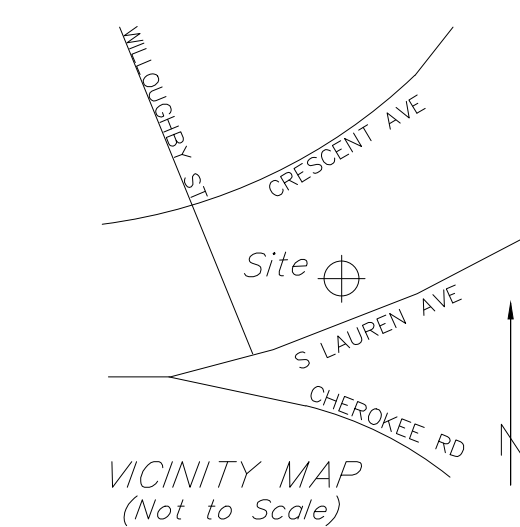
**See Attachments (applications, department memos, maps etc.) Online at [www.rezoning.org](http://www.rezoning.org)**

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

CLIENT / OWNER

THE ODOM FIRM  
100 GREENWOOD CLIFF  
CHARLOTTE, NORTH CAROLINA  
(704) 377-7333

VICINITY MAP



PROJECT

## 236 LAUREL AVE REZONING PETITION 2021-031

CHARLOTTE, NORTH CAROLINA

PROJECT NUMBER

20053

DATE

01-13-2021

ISSUED FOR

CITY REVIEW

REVISIONS

NO.	DATE	DESCRIPTION	BY
4-12-21		PER CITY COMMENT	BS
5-20-21		PER CITY COMMENT	BS

PROJ. MANAGER: B.S.  
DRAWN BY: T.W.  
CHECKED BY: B.S.

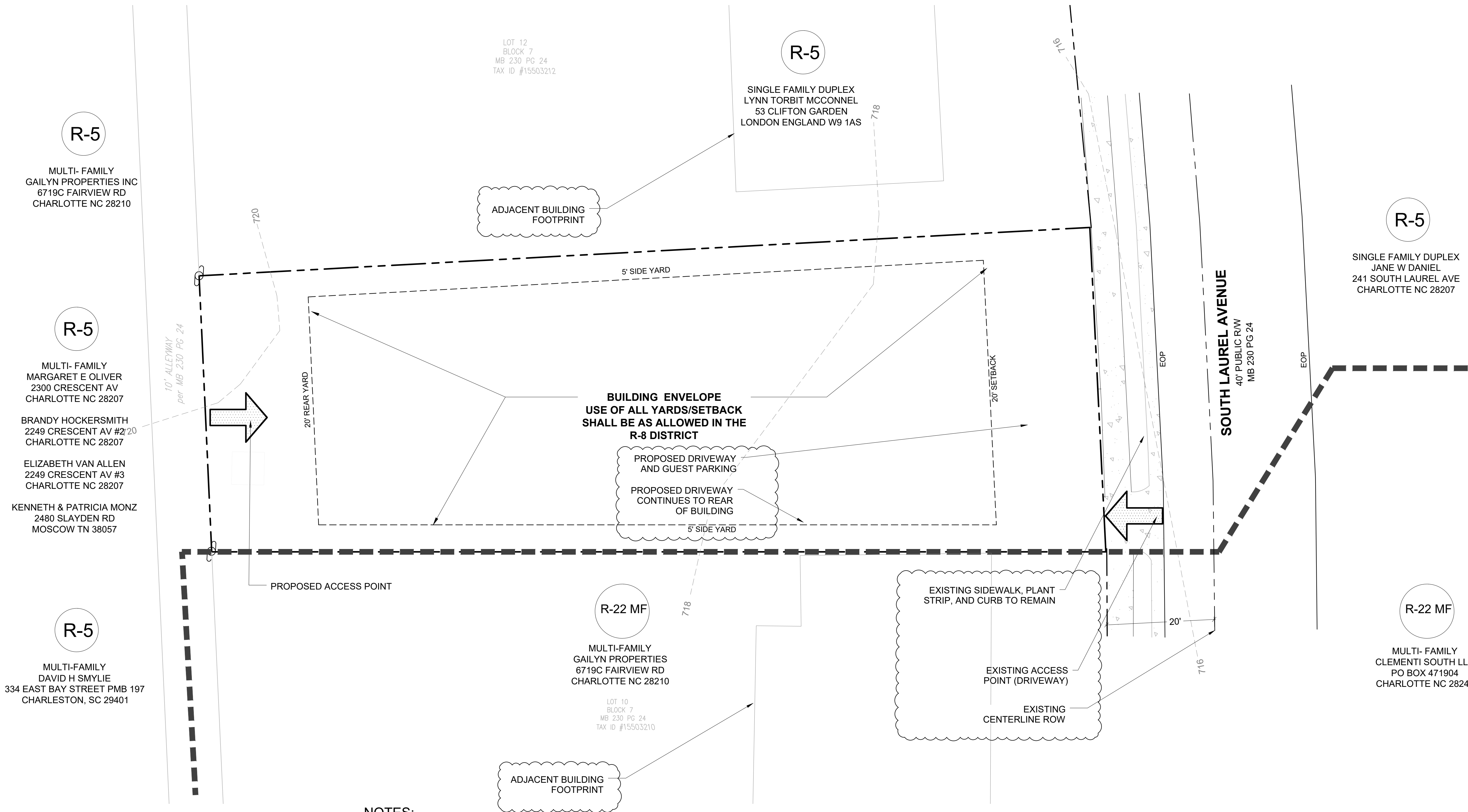
SCALE

SCALE  
AS INDICATED

DRAWING

### REZONING TECHNICAL DATA SHEET

# RZ1.00



### NOTES:

A. General Provisions

- These Development Standards form a part of the Rezoning Plan associated with the Rezoning Application filed by Halley Douglas, Inc. (the "Applicant") to accommodate the residential development of that approximately 0.232 acre site located at 236 S. Laurel Ave., which is more particularly depicted on the Rezoning Plan (the "Site"). The Site is comprised of the entirety of Parcel 155-03-211.
- Development of the Site will be governed by the Rezoning Plan, these Development Standards and the applicable provisions of the City of Charlotte Zoning Ordinance (the "Ordinance").
- Unless the Rezoning Plan or these Development Standards establish more stringent standards, the regulations established under the Ordinance for the R-8 zoning district shall govern the development and use of the Site.

- Future amendments to the Rezoning Plan and/or these Development Standards may be applied for by the then owner or owners of the Site in accordance with the provisions of the Ordinance. Alterations to the Rezoning Plan are subject to the Ordinance. Modifications are subject to Section 6.207 of the Zoning Ordinance.

B. Permitted Uses/Development Limitations

The Site may be developed for the residential uses allowed in the R-8 district, including a duplex, and any incidental and accessory uses relating thereto that are allowed in the R-8 zoning district. The use of all yards and setbacks shown on the site plan shall be as allowed in R-8 zoning district.

C. Transportation

- Vehicular access to the Site shall be as generally depicted on the Rezoning Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any adjustments required for approval by the Charlotte Department of Transportation.
- As depicted on the rezoning plan, the site will be served by private driveways, and minor adjustment to the location of the driveway shall be allowed during the construction permitting process
- All required transportation improvements will be approved and constructed before the site's first building certificate of occupancy is issued.

D. Architectural Standards

- The maximum height in feet of the structure(s) to be located on the site shall be as allowed in the R-8 zoning district.
- The actual widths of the structure(s) shall be as allowed in the R-8 zoning district.
- Permitted building materials shall comprise of brick, cedar shake, wood siding, fiber cement siding, stucco, masonry, and or other material approved by the City Planning Director.
- Permitted roof materials are asphalt shingles, composition shingles, wood shingles, tin, standing seam metal, and wood shakes.

- Walkways shall be provided to connect all residential entrances to sidewalks along public and private streets. Such walkways may be via a driveway
  - Any garage constructed on the site will be accessed via the alley way shown on the site plan.
  - Only one entry door to the principal structure shall front South Laurel Avenue in order to promote the appearance of a detached dwelling.
- E. Streetscape and Landscaping

Building setbacks shall be measured from the right of way as generally depicted on the Rezoning Plan.

F. Binding Effect of the Rezoning Documents and Definitions

- If this Rezoning Application is approved, all conditions applicable to the use and development of the Site imposed under these Development Standards and the Rezoning Plan will, unless amended in the manner provided under the Ordinance, be binding upon and inure to the benefit of Applicant and the current and subsequent owners of the Site and their respective successors in interest and assigns.
- Throughout these Development Standards, the term "Applicant" shall be deemed to include the heirs, devisees, personal representatives, successors in interest and assigns of Applicant or the owner or owners of the Site from time to time who may be involved in any future development thereof.
- Any reference to the Ordinance herein shall be deemed to refer to the requirements of the Ordinance in effect as of the date this Rezoning Application is approved

### DEVELOPMENT DATA:

PARCEL ID NUMBER: 155-03-211

AREA: 0.232 AC

EXISTING ZONING: R-5

PROPOSED ZONING: R-8 (CD)

EXISTING USE: SINGLE FAMILY RESIDENTIAL

PROPOSED USE: AS ALLOWED IN R-8; DUPLEX

PARKING: AS REQUIRED / ALLOWED PER R-8

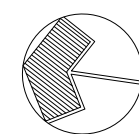
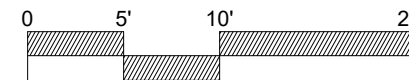
SETBACKS: FRONT 20'  
SIDE 5'  
REAR 20'

BUILDING HEIGHT AS ALLOWED PER ORDINANCE

### FIRE DEPARTMENT:

FIRE HYDRANTS SHALL BE WITHIN 750' OF THE MOST REMOTE POINT OF THE BUILDING AS THE TRUCK TRAVELS

SCALE: 1" = 10'



## Petition 2021-031 by Halley Douglas, Inc.

### To Approve:

The petition is found to be **inconsistent** with the *Elizabeth Area Plan*, based on information from the staff analysis and the public hearing, and because:

- The *Elizabeth Area Plan* recommends residential up to 5 units per acre.

However, we find this petition to be reasonable and in the public interest, based on the information from the staff analysis and the public hearing, and because:

- The site directly abuts an existing multi-family structure that is zoned R-22MF.
- The rezoning site is immediately surrounded by single-family residential homes, quadruplexes, apartments and condominiums.
- The request is consistent with the development patterns in the immediate area.
- The R-8(CD) petition seeks to allow all residential uses, including a duplex, on the rezoning lot. The project will provide a minimum setback and yards that are compatible with the surrounding pattern of development.

The approval of this petition will revise the adopted future land use as specified by the *Elizabeth Area Plan*, from current recommended residential up to 5 units per acre use to new recommended residential up to 8 units per acre use for the site.

### To Deny:

The petition is found to be **inconsistent** with the *Elizabeth Area Plan*, based on information from the staff analysis and the public hearing, and because:

- The *Elizabeth Area Plan* recommends residential up to 5 units per acre.

Therefore, we find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

- (To be explained by Zoning Committee)

**Motion:**  
**Approve or Deny**  
**Maker:**  
**2<sup>ND</sup>:**

**Vote:**  
**Dissenting:**  
**Recused:**