

**REQUEST**

Current Zoning: R-22MF (multi-family residential)  
Proposed Zoning: MUDD-O (mixed use development-optional)

**LOCATION**

Approximately 0.15 acres located at the northwest intersection of Kennon Street and Hawthorne Lane, south of Parkwood Avenue, and west of Thomas Avenue.



**SUMMARY OF PETITION**

The petition proposes to allow an existing commercial building to have outdoor dining and optional provisions related to architectural standards, parking, and streetscape.

**PROPERTY OWNER**  
**PETITIONER**  
**AGENT/REPRESENTATIVE**  
**COMMUNITY MEETING**

KEH Properties LLC  
KEH Properties LLC  
Russell Fergusson

Meeting is required and has been held. Report will be available online when received.  
Number of people attending the Community Meeting: 1

**STAFF**  
**RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **consistent** with the 2040 Policy Map (2022) recommendation for the Neighborhood 1 Place Type.

Rationale for Recommendation

- The petition is consistent with the Charlotte Future 2040 Comprehensive Plan Goals #1: 10-Minute Neighborhood, #5: Safe & Equitable Mobility, #6: Healthy, Safe & Active Communities, and #9: Retain Our Identity & Charm.
- The petition attempts to balance the provision of service retail with protection of residential areas.

- The petition's proposed expansion satisfies the goal of Retaining Identity & Charm by taking a preservation-oriented approach and retaining the existing building on the site.
- The petition is compatible with adjacent uses considering the existing building and character will be retained.
- The N1 Place Type allows for continued and adaptive reuse of existing non-residential buildings for retail uses.

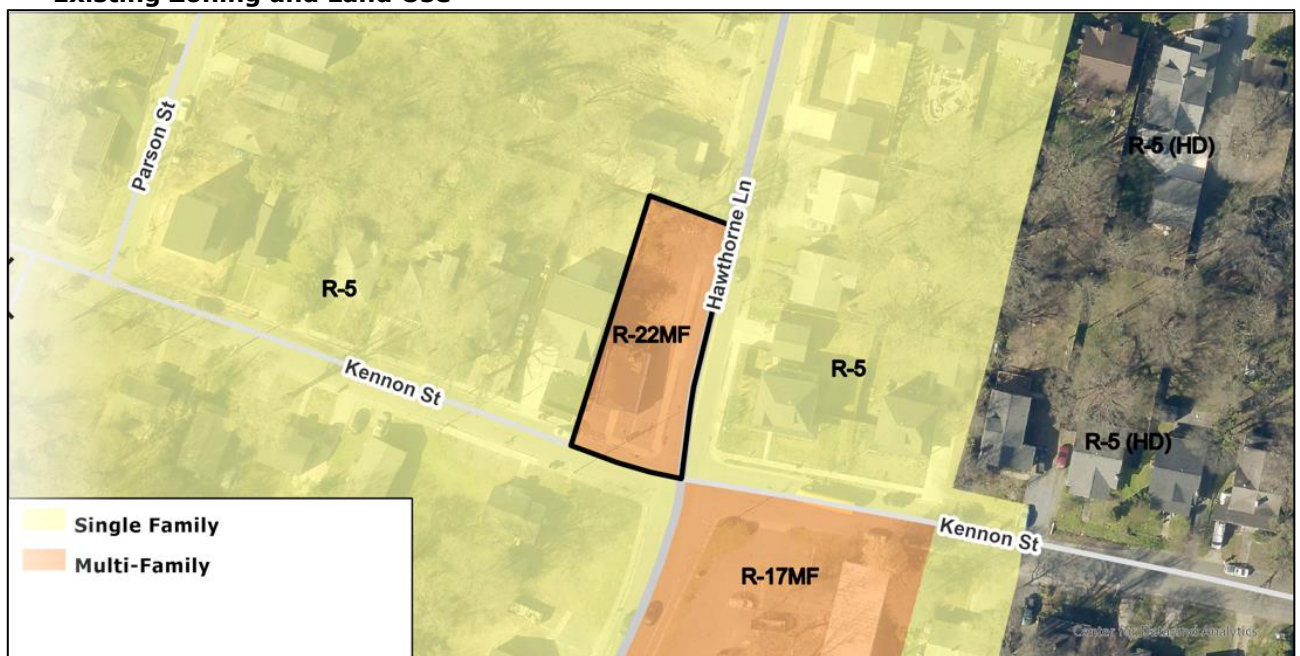
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

- Proposes expansion of an existing 1,120 square foot commercial building built in 1946 to not exceed ~~6,000~~ 4,000 square feet.
- Limits building height to 40.
- Prohibits the following uses: gas station, car wash, adult establishments, and accessory drive-in window.
- Restricts outdoor uses to 7:00 a.m. to 10:00 p.m.
- Notes the site may be devoted to the use or uses together with an incidental or accessory uses associated therewith as follows: buildings for dramatic, musical, or cultural activities; bicycle-sharing station; small-scale class learning businesses such as culinary school, piano school, and similar categories of small-scale schooling; donation drop-off facility; EDEE Type 1; EDEE Type 2; food stall and/or food establishments; arcade uses as part of an ice-cream/candy shop or similar small-scale indoor amusement; indoor recreation; institutional uses, limited to churches, synagogues, parish houses, Sunday School buildings, convents, community recreation centers, libraries, museums, theaters, or art galleries; outdoor fresh produce stands and mobile produce market; outdoor seasonal sales; outside open market; parks, greenways, and arboretums; pet services indoor; professional business and general offices, excluding post offices; retail sales limited to uses permitted in the B-1 district; services such as beauty shops and barbershops up to 4,500 square feet, and locksmiths; studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry; theaters, motion pictures; YMCAs, buildings for social, fraternal, social service, union and civic organizations, and comparable organizations.
- Notes if onsite alcohol consumption is provided, then the use must also include food service.
- Notes hood ventilation for kitchen may remain in its current location but if moved, it shall be placed on the bilateral half of the building that is closest to Hawthorne Lane.
- Adds note stating modifications and/or building additions shall not increase the existing degree of non-conformity.
- Adds note stating petitioner may increase the size of the existing building, add additional floors or square footage to the building, subject to ordinance requirements and subject to a limitation (in height of 40 feet or less in the event that petitioner does expand the building).
- Proposes the following optional provisions:
  - The existing building shall remain, and may be renovated, improved, expanded and replaced in the manner generally depicted on the rezoning plan. The destruction or substantial impairment of the building alone shall not require rezoning and the building may be replaced in a materially similar form in the manner generally depicted on the rezoning plan. In the event the building is permanently removed for redevelopment then the parcel shall be rezoned.
  - The parking requirements of the zoning ordinance shall be reduced to zero, and no parking shall be required for use of the existing building, building expansion and outdoor patio area.
  - To facilitate the retention of the existing building, the petitioner may preserve or remove the existing non-compliant parking in the manner generally depicted on the rezoning plan.
  - Petitioner shall not be required to meet the parking screening requirements of 12.303 and all other parking screening requirements for the existing parking as generally shown on the site plan, provided that such screening shall be required as applicable if the parking areas are retained after completion of the streetscape improvements.
  - In order to facilitate the rehabilitation and use of the existing building, the building and outdoor areas may be renovated, improved and expanded into the areas generally marked on the site plan as "Building Expansion Area and Outdoor Patio Area" on the rezoning plan for use as indoor or outdoor uses as permitted by the ordinance.
  - The existing sidewalks shall remain until the streetscape improvements along Hawthorne Lane and Kennon Street as generally depicted on the rezoning plan are required as set forth therein.

- Notes the existing sidewalks will remain and be maintained along Hawthorne Lane and Kennon Street until such time as the transportation improvements are required.
- Specifies parking area will not require screening unless the parking area is retained after completion of the streetscape improvements.
- Notes existing fencing adjacent to single family lot will be retained and maintained in materially the same form and location.
- Transportation Improvements:
  - Proposes access via driveway connection to Hawthorne Lane.
  - Notes parking will not be required but petitioner may retain existing parking as set forth in the optional provisions.
  - Notes except for the curb cut removals, public related transportation improvements shall be approved and constructed at the time that the building or site is permitted for an expansion of greater than 25% of the building area and shall be completed before the issuance of a certificate of occupancy for the expansion project. The transportation improvements will not be triggered by minor permits or permitting necessary to repair or replace the building or premises, nor shall it be required by expansion of outdoor seating areas.
  - When required per these conditional notes, petitioner shall:
    - Provide a six-foot wide sidewalk on the back of the curb on Kennon Street as generally shown on the site plan when required by expansion of the building by more than 25% as set forth above.
    - When the sidewalk on Kennon Street is improved, the curb cut on Kennon Street shall be removed as generally shown on the site plan, subject to approval of CDOT.
    - Provide a six-foot wide sidewalk on the back of curb on Hawthorne Lane as generally shown on the site plan when required by expansion of the building by more than 25% as set forth above.
    - When the sidewalk on Hawthorne Lane is improved, the curb cut closest to the intersection with Kennon Street shall be removed as generally shown on the site plan, subject to approval of CDOT.
    - Notes petitioner will remove the curb cut located on Kennon Street as generally shown on the site plan.
    - Notes petitioner will remove the non-compliant curb cut located on Hawthorne Lane, the Hawthorne Lane curb cut located closest to Kennon Street, as generally shown on the site plan.
- **Existing Zoning and Land Use**



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

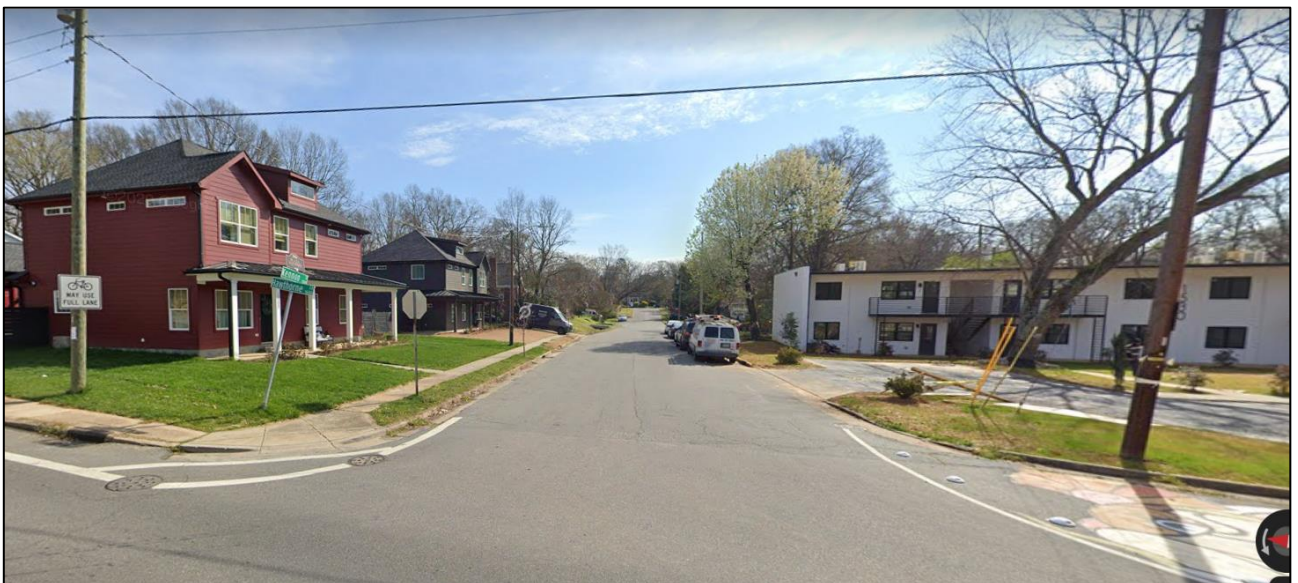




The site is developed with a 1-story commercial building constructed in 1946.



North, along Hawthorne Lane, are single family residential homes.

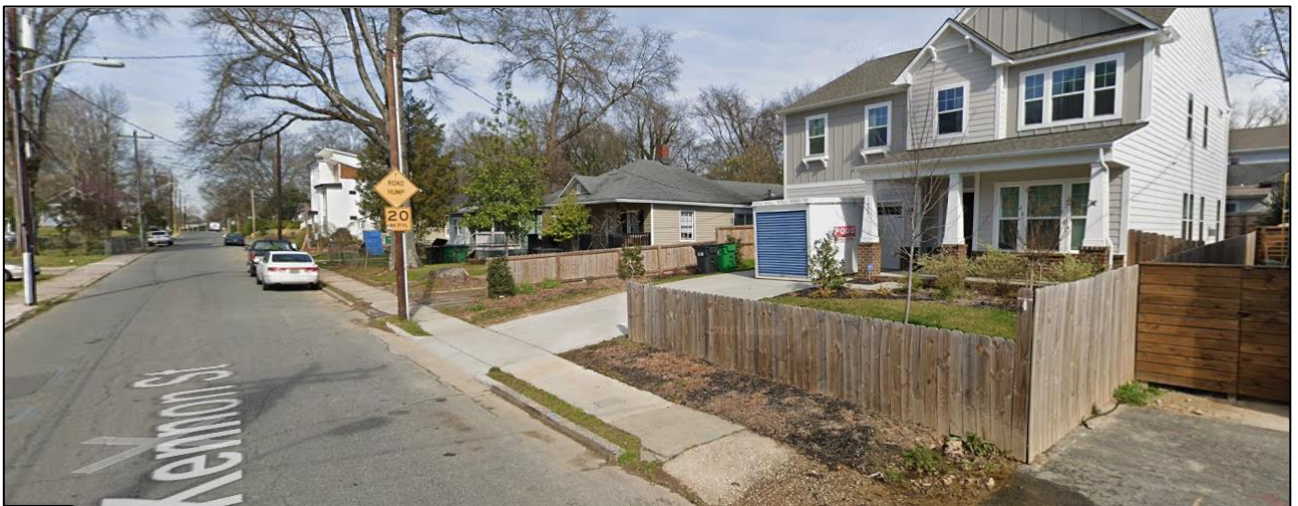


East are a mix of single family homes and multi-family residential developments.



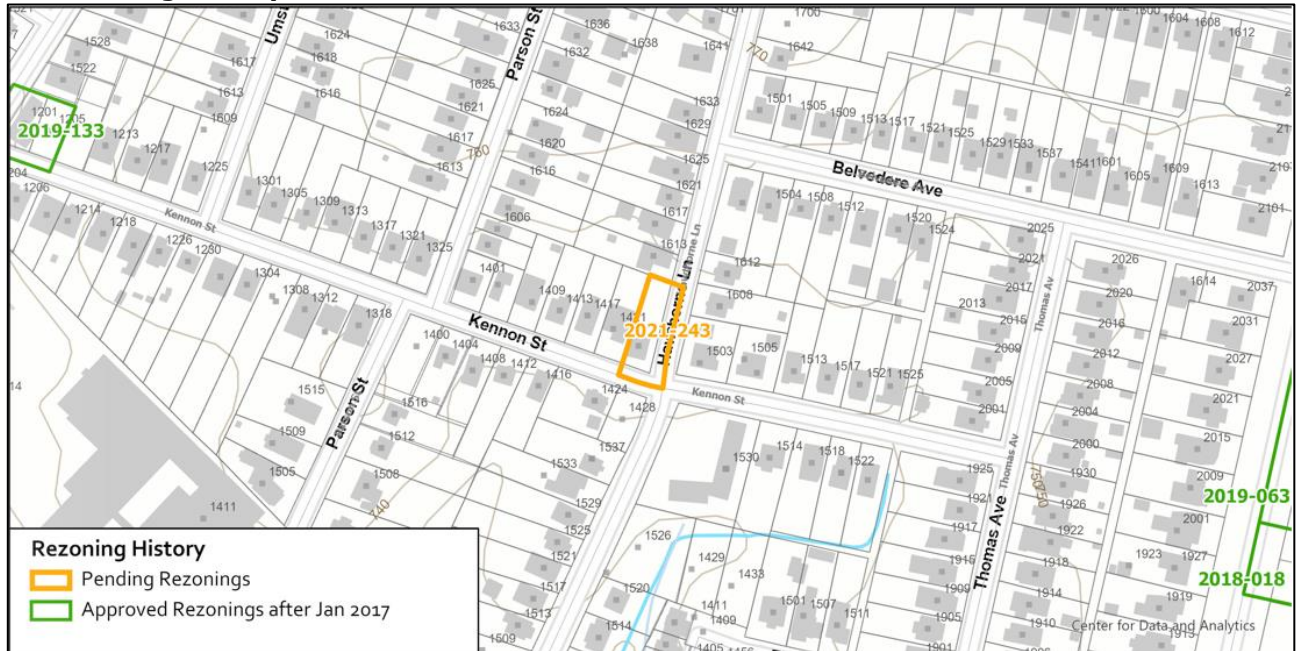


South are a vacant lot and single family homes.



West are single family homes.

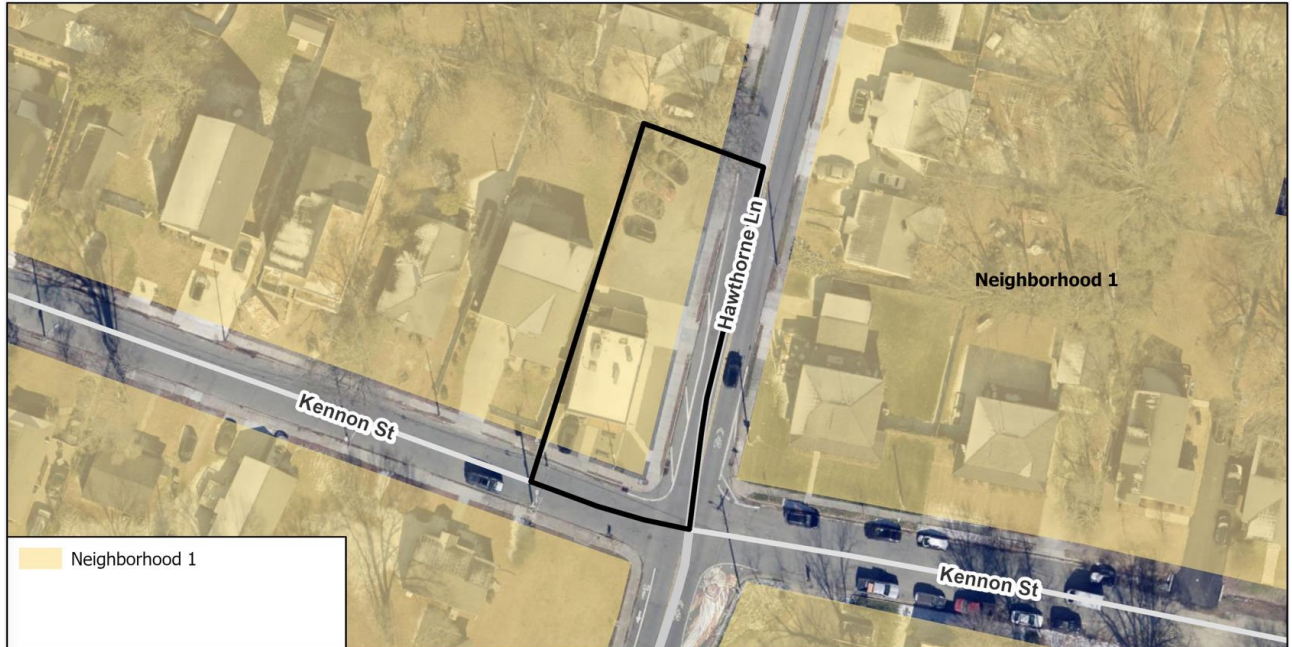
• **Rezoning History in Area**



Petition Number	Summary of Petition	Status
2019-133	Rezoned 0.2 acres from R-5 to MUDD-O to allow adaptive reuse of an existing building along with an adjacent parcel for parking that would allow up to 3,400 square feet to be developed as EDEE Type 1 and 2, retail, and personal service uses permitted by right, under prescribed conditions, along with accessory uses as allowed within the MUDD district.	Approved
2019-063	MUDD-O site plan amendment for 2.8 acres to allow the addition of two commercial buildings on the site while preserving the existing estate home.	Approved
2018-018	Rezone 4.54 acres from R-5, R-5 HD-O, and B-2(CD) HD-O to MUDD-O and MUDD-O-HD-O to redevelop the site to allow 22 single family attached dwelling units, and to retain the existing historic landmark structure, which is located in the Plaza Midwood historic overlay, for a variety of uses permitted in the MUDD (mixed use development) district.	Approved



- **Public Plans and Policies**



- The 2040 Policy Map (2022) recommends the Neighborhood 1 Place Type for this site.

- **TRANSPORTATION SUMMARY**

- The site is located on Hawthorne Lane, a City-maintained minor thoroughfare, and Kennon Street, a City-maintained collector street. A Traffic Impact Study (TIS) is not needed for this site. The petitioner has committed to the dedication of right-of-way along Hawthorne Lane and Kennon Street, constructing a 6-foot sidewalk along Hawthorne Lane and Kennon Street and closing existing non-compliant driveways on Hawthorne Lane and Kennon Street. CDOT has no outstanding issues.
- Active Projects:
  - Kennon Street Sidewalk (Hawthorne Lane to Thomas Avenue)
    - This project will install sidewalk along the north side of Kennon Street between Hawthorne Lane and Thomas Avenue.
    - Anticipated completion date 2022.
- **Transportation Considerations**
  - See Outstanding Issues, Notes 1-2-3. Addressed
- **Vehicle Trip Generation:**
  - Current Zoning:
    - Existing Use: 110 trips per day (based on 1,120 fast casual restaurant).
    - Entitlement: 15 trips per day (based on 3 apartment units).
  - Proposed Zoning: 585 trips per day (based on 6,000 square feet fast casual restaurant).

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

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** Not applicable
- **Charlotte Water:** 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:** No outstanding issues.
- **Urban Forestry:** See Outstanding Issues, Note 10. Addressed

### OUTSTANDING ISSUES

#### Transportation

1. The proposed zoning district has a setback measured from back of the existing or proposed future curbline. Addressed  
**Hawthorne Lane:** Label and dimension the curb and gutter from the centerline for each road on the site plan.
2. Revise site plan and conditional note(s) to show proposed intersection improvements of Kennon Street sidewalk project that is being done by the City's CIP project. These improvements can be shown as "by others" and in grayscale. The project scope includes adding curb ramps and a signalized crossing at the intersection of Hawthorne Lane at Kennon Street. **Update to Comment from 3-21-2022:** Call out should reference City of Charlotte CIP Project (instead of CDOT project, this project is being managed by the City's General Services Department). Addressed
3. **New Comment (New Site Plan, 6-27-2022):** Revise conditional notes to commit to removing the specified non-compliant curb cuts along Kennon Street and Hawthorne Lane prior to the sidewalk improvements being triggered. Addressed

#### Site and Building Design

4. Show, label, and dimension all public street centerlines to the future back of curb. Label, show and dimension the setback from the future back of curb which will include the required planting strip and sidewalk. Addressed
5. Label and dimension existing sidewalk along all public streets. Addressed
6. Clearly specify existing building square footage, proposed addition, and total square footage on site plan. Total SF may be requested to be reduced based on new information. Addressed
7. Clarify Optional Provision Note G.
8. Update note to say that any modifications and/or building additions will not increase the existing degree of non-conformity. Addressed
9. If applicable, any ventilation/fan associated with food and beverage uses will not be located adjacent to single-family uses. Add note to site plan. Addressed
10. Additional language and detail need to be provided regarding location and screening of refuse/recycling area as this is still a predominantly residential neighborhood.
11. **New Comment** Clearly label building setback lines to ensure any expansion or future building provides adequate spacing from the adjacent residential use. Not addressed Addressed

#### Environment

12. Add a note stating the site shall comply with the Tree 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
















## Goals Relevant to Rezoning Determinations

### Rezoning Petition # 2021-243

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

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

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

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