

REQUEST	Current Zoning: CC, commercial center Proposed Zoning: MUDD-O, mixed use development district, optional and five year vested rights
LOCATION	Approximately 24 acres located on the southwest corner of the intersection of West Mallard Creek Church Road and North Tryon Street.
CENTER, CORRIDOR OR WEDGE	Corridor
SUMMARY OF PETITION	This petition proposes the development of a transit oriented, pedestrian friendly corporate office park with up to 1,000,000 square feet of office, professional business, and ancillary uses. The petition proposes several optional provisions and five year vesting.
Property Owner	Bank of America
Petitioner	Lincoln Harris, LLC
Agent/Representative	Jeff Brown/Keith MacVean
Community Meeting	Meeting is required and has been held. Report available online.

ZONING COMMITTEE ACTION

The Zoning Committee voted unanimously to recommend **DEFERRAL** of this petition until a special meeting on July 13, 2009 at 2:15 pm. The following modifications have been made to the petition:

1. A note has been added to the conditional plan indicating that prior to the commencement of the MUDD review process for each of the proposed office buildings, the Petitioner will submit to the Planning Director the proposed building elevation to assure compliance with the attached building elevations and the conditional notes regarding architectural treatment of the base of the proposed building.
2. During the building permit and MUDD review process the Petitioner will work to identify tree save areas. One possible tree save area is the area of the site to be dedicated to Mecklenburg County Parks and Recreation for incorporation into the Mallard Creek Greenway. In such an event, this area was used to calculate any required tree save or natural area requirements for the site.
3. It appears from a review of Polaris that a small portion of the site is affected by portions of a Post Construction Controls Buffer. This information has been added to the Site Plan.
4. Staff has removed the request for the petitioner to show the maximum FAR on the site plan.
5. Staff has removed the request for the petition to include the development proposed for Area 5 in Note (B)(3) as this note identifies areas that could be used for the initial phase of development or could be used for surface parking for the initial phase of development. Area 5 does not meet either of these criteria.
6. A cross-section of setbacks with plantings along West Mallard Creek Church Road and North Tryon Street has been provided.
7. The petitioner has submitted elevations for the initial building to be located at the corner of North Tryon Street and West Mallard Creek Church Road.
8. The centrally located open space has been labeled.
9. A concrete waiting pad for a bus stop is being provided. However, due to the need for secured parking the reservation of 25 non-exclusive parking spaces will not be included.

10. The Petitioner shifted the location of the proposed driveway on North Tryon Street to provide the required storage for the directions cross-over.
11. Private Streets C and A have been labeled as Private Streets open to the public for ingress and egress.
12. The Petitioner will provide two pedestrian refuge islands and associated pedestrian countdown signals at the intersection of N. Tryon Street and Mallard Creek Church Road. The refuge islands will be provided on North Tryon Street on the northern approach and on East Mallard Creek Church Road on the westbound approach to the intersection. The pedestrian refuge islands will be a minimum of six (6) feet wide.
13. All the internal private streets will have at a minimum eight (8) foot planting strips and six (6) foot sidewalks with the exception of Private Street C which will only have a sidewalk on one side. All other internal private streets will have sidewalks on both sides of the streets.
14. The Petitioner will amend Section F Streetscapes Note 1 to indicate that the sidewalks and planting strips along North Tryon Street and West Mallard Creek Church Road will be installed with the first phase of development.
15. The Petitioner reworded Note 3 of Section entitled Transportation Improvements to read that the developer is responsible for the paving associated with the installation of required turn lanes.
16. The Petitioner has agreed to extend and construct an eight foot sidewalk along North Tryon Street from the Site's southern boundary to tie into the sidewalk that will be constructed by others as part of the reconstruction of the southbound bridge on S. Tryon Street. The petitioner will not commit to connect a sidewalk to tax parcel 04719110 since that would require the sidewalk to extend over Mallard Creek.
17. Parks and Recreation asked the petitioner to dedicate the land within the FEMA floodplain fringe for greenway and an additional area for public access to the greenway. The petitioner will dedicate a minimum of 90 feet of property between the southern property line and Private Street A. This area will be dedicated after all site utilities and associated grading has been completed. An access way to the Greenway will also be provided.

The following notes have been added or modified:

1. The Petitioner reserves the right to cross, with overhead walkways or bridges, the internal Private Streets so that the buildings constructed on the Development Areas may be connected to one another.
2. The height in Development Area 1 has been increased from 200 feet to 220 feet.
3. The height in Development Area 2 has been reduced from 265 feet to 240 feet.
4. The height in Development Areas 3 and 5 is limited to 160 feet.
5. The petitioner has agreed to allow the adjoining property (tax parcel 04744101) to access Private Street C. The access to Private Street C must be located between the intersection of Private Street E with Private Street C and the point along Private Street C indicated on the rezoning plan, provided that Private Street C remains a private street, and changes to its alignment or configuration do not reduce the buildable area on Development Areas 2, 4 and 6 and such access is approved by applicable City departments. The construction and the cost associated with the connection from the adjoining parcel to Private Street C shall be the responsibility of the abutting property owner.

The following issues are outstanding:

1. The petitioner should reword the last sentence of (F) (7) to indicate that "this area may be used to meet the required tree save or natural areas for this site."
2. The note allowing overhead walkways and bridges should be limited to areas between Development Areas 4 and 6, and Development Areas 2 and 4.

VOTE

Motion/Second: Rosenburgh/Allen
 Yeas: Allen, Griffith, Locher, Rosenburgh, and Simmons
 Nays: None
 Absent: Howard and Walker
 Recused: None

ZONING COMMITTEE DISCUSSION

Staff reviewed the petition noting that the majority of the outstanding issues from the public hearing had been resolved. Since the public hearing the amount of greenway has been reduced from 125 feet to 90 feet which is acceptable to the Parks and Recreation Department. At the public hearing, the Alexanders spoke about the need for an additional connection to their property. The petitioner has added a second connection within a specified area depicted on the site plan.

Staff continued that the revised site plan showed overstreet walkways between development parcels 4 and 6, 1 and 4, and, 5 and 3. Staff has not had adequate time to fully evaluate the impact of the overstreet walkways. For this reason, the petitioner has been asked to remove the bridge between parcels 5 and 3 as it takes away from the pedestrian friendly environment. Staff does not have issues with the overstreet walkway between the parking decks on development parcels 4 and 6 and 1 and 4.

Laura Harmon, Assistant Director of Planning, stated that while staff is generally supportive of the development, the overhead walkways, particularly the one connecting development areas 3 and 5, are a concern. One of the characteristics that makes this petition supportable is having the urban street life activity on the site. Removing this by adding the overhead walkways and not providing the pedestrian environment causes great concern for staff.

A motion was made to **APPROVE** this petition by Commissioner Rosenburgh and seconded by Commissioner Griffith.

The Commission asked if the staff is recommending approval. Staff stated that in order to be fully supportive of the petition, the issues associated with the overstreet walkway should be addressed.

Debra Campbell, Planning Director, stated that staff had been working with the petitioner and is excited about the development. The concern is however, that there is no public access, no public uses at the street level and now there may not be people ever coming outside the confines of the buildings. This is a particular concern in this location as it is the first TOD development in the northeast and it is the first TOD employment-related development. Staff is asking the petitioner for time to understand and ask about design issues such as how the overstreet walkways will be designed, the materials, and transparency. Ms. Campbell asked the Commission to consider a deferral of this petition to a date that could keep the petitioner on track for a July decision.

Rules were suspended and the petitioner's agent Jeff Brown was asked about the rationale for the overstreet walkways and if there are any design standards.

Mr. Brown explained that this is a campus setting and there are security issues for the planned employer. There is likely to be a single user in this instance. The overstreet walkways might occur but are not a given and there is a long term build-out for the project so the petitioner wants flexibility.

He indicated that the rezoning will allow jobs and employment in a transit location but the project cannot have retail available to the public because of security concerns. The design for the overstreet walkways will be in keeping with the elevations shown for the buildings.

A Commissioner asked Mr. Brown if there would be an issue with delaying by a month. He responded that the representative from Bank of America is not at the meeting and he does not have the leeway to say that a delay would be acceptable.

Another Commissioner asked Mr. Brown if a shorter delay could be considered and he responded that he could not agree with the delay.

A substitution motion was made to **DEFER** this petition to a special meeting on July 13, 2009 at 2:15 pm to allow the petition to still be decided upon by Council on July 20, 2009.

STATEMENT OF CONSISTENCY

This petition is found to be consistent with the *Transit Station Area Principles* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee (motion by Commissioner Griffith seconded by Commissioner Allen).

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

FINAL STAFF ANALYSIS

(Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- 1,000,000 square feet of general medical and office uses, professional business and ancillary retail, restaurants, childcare, indoor recreation and personal service uses.
- No more than 75,000 square feet to be developed with retail, restaurants, childcare personal services, and similar "non-office" uses.
- Six development "areas".
- Two parking structures with architectural styles, materials, and colors similar to the office buildings.
- Eight-foot sidewalks and planting strips along West Mallard Creek Church Road and North Tryon Street and both sides of "public street D".
- The construction of a path adjacent to the Mallard Creek Greenway.
- Three overstreet walkways.
- Transportation improvements including:
 - Two access points on West Mallard Creek Church Road, one full-movement and one right-in/right-out.
 - One access point onto North Tryon Street.
 - Proposed "public street D" aligned with existing Alexander Pointe Drive and a traffic signal installed when warranted.
 - Addition of a second northbound left-turn lane on North Tryon Street.
 - Extension of the eastbound right-turn lanes on West Mallard Creek Church Road.
 - Construction of a third southbound travel lane from the intersection of Mallard Creek Church Road and North Tryon Streets to the proposed driveway on North Tryon Street.
 - Pedestrian refuge islands and crosswalks at the intersection of Mallard Creek Church Road and North Tryon Street.
 - Construction of sidewalk along North Tryon Street so that no sidewalk gaps will exist between the southbound bridge and the intersection of North Tryon Street and West

Mallard Creek Church Road.

- Dedication and conveyance of 50 feet from the center line of North Tryon Street and West Mallard Creek Church Road where it does not currently exist.

The optional requests include:

Building heights:

- 220 feet in Development Area 1
- 240 feet in Development Area 2
- 160 feet in Development Areas 3 and 5

Signage:

Wall signs to occupy up to ten percent of each building wall, up to a maximum of 200 square feet per wall.

Two detached ground mounted signs with up to 50 square feet in sign area and five feet in height.

Surface Parking:

To be located to the side and rear of buildings constructed in one of the initial development areas and between existing or proposed public streets.

Subdivision:

- Portions of the site may be subdivided to create lots with no public street frontage, side and or rear yards as a part of a unified planned development.

- **Public Plans and Policies**

The *Northeast District Plan (1996)*, as amended by Petition 2004-074, recommends retail land uses in this location. However, because the parcel is within a ¼ mile of a proposed Blue Line Extension (BLE) station at Mallard Creek Church Road, across from UNC-Charlotte the *Transit Station Area Principles* provide land use guidance.

Transit Station Area Principles (2001) recommend a minimum FAR of .75, yielding at least 65 employees per acre, for non-residential uses within a ¼ mile walk distance of a transit station. The proposed FAR is approximately .96 at build out and the petitioner anticipates approximately 150 employees per acre.

The proposed office use is consistent with the *Transit Station Area Principles*.

- **STAFF RECOMMENDATION (Updated)**

- Staff agrees with the recommendation of the Zoning Committee.

PUBLIC INFRASTRUCTURE UPDATES (see full department reports online)

- **CDOT:** No issues.
- **Charlotte Fire Department:** No issues.
- **CATS:** No issues.
- **Connectivity:** No issues.
- **Schools:** No issues.
- **Mecklenburg County Parks & Recreation:** No issues.

ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Storm Water:** No issues.
- **LUESA:** No issues.
- **Site Design:** No issues.

OUTSTANDING ISSUES

The petitioner should:

Remove the overstreet walkway between buildings 3 and 5.

Provide details on the overstreet walkways between the parking decks and buildings 1 and 4.

Attachments Online at www.rezoning.org

- Application Form
- CATS Review
- CDOT Review
- Charlotte Fire Department Review
- Community Meeting Report
- LUESA Review
- Mecklenburg County Parks & Recreation
- Pre-Hearing Staff Analysis
- Site Plan
- Storm Water Review

Planner: Tammie Keplinger (704) 336-5967