

REQUEST	Current Zoning: B-1, neighborhood business and R-5, single family residential, up to 5 dwelling units per acre Proposed Zoning: TOD-MO, transit oriented development, mixed use, optional
LOCATION	Approximately 0.19 acres fronting on North Davidson Street and Yadkin Avenue between East 34 th Street and East 35 th Street. (Council District 1 - Kinsey)
SUMMARY OF PETITION	The petition involves two parcels (one fronting North Davidson Street and the second fronting Yadkin Avenue) and proposes to reuse and expand a vacant one-story building on one lot to allow the establishment of a restaurant. The other lot will be used for the purpose of the storage and collection of solid waste and recycling receptacles.
PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE	Veto A. Vespoint and Clara E. Vespoint Kenneth Lin and Jon Branham Tracy Honeycutt
COMMUNITY MEETING STATEMENT OF CONSISTENCY	Meeting is required and has been held. Report available online. This petition is found to be consistent with the <i>Draft Blue Line Extension 36th Street Transit Station Area Plan and the North Charlotte Plan</i> and to be reasonable and in the public interest, by a 4-1 vote of the Zoning Committee (motion by Commissioner Lathrop seconded by Commissioner Labovitz).

ZONING COMMITTEE ACTION	<p>The Zoning Committee voted 4-1 to recommend APPROVAL of this petition with the following modifications:</p> <ol style="list-style-type: none"> 1. The petitioner has addressed the issue regarding the placement of the recycling/refuse area on the lot facing Yadkin Avenue via recordation of a recombination plat involving the swapping of land with the abutting property owner, thereby allowing the two parcels of the subject rezoning to adequately touch and be combined. 2. The petitioner has listed the existing square footage, new (additional) square footage, and total square footage on the site plan. 3. The petitioner has provided information on the site plan indicating that a second story will be constructed over the existing one-story building, and that a new three-story addition will be constructed in the rear of the proposed two-story portion. The petitioner has also provided the height of the existing building (15 feet) and the proposed height as 39 feet. 4. The petitioner has removed "night club" from the Optional provision regarding parking. The petitioner has added notes on the site plan to indicate 4 on-street parking spaces, two of which are proposed to be shared with a neighboring business. 5. The petitioner has modified Optional Provision 3 (Streetscape) to specify N. Davidson Street and requested that the existing 8-foot sidewalk be allowed to remain.
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6. The petitioner has removed the brick wall shown on the N. Davidson Street elevation and added a note stating it is not part of the site plan.
7. The petitioner has revised the site plan to show the boundaries of the area proposed to be rezoned with a weighted line.
8. Petitioner added the language provided written response regarding intent to coordinate with a local artist on the elevations to the actual elevation sheet.
9. The petitioner has addressed CDOT comments as follows:
 - a. The petitioner has removed the proposed curb cut on Yadkin Avenue from the site plan.
 - b. The petitioner has added language to state intent to work with neighboring property owners to secure additional parking.
10. The appropriate standardized notes have been placed on the site plan (in addition to the Optional Provisions listed).
11. The *Optional Provision* language for streetscape (on Yadkin Avenue) has been modified to specify the street name and request that the existing sidewalk be allowed to remain. The sidewalk width has been added to the additional language.
12. Language has been added to the *Optional Provision* for the required 16-foot setback, and to allow new construction incorporating an existing structure be built to the established setback with the established setback identified as at back of the existing sidewalk.
13. The established setback has been identified on the site plan.
14. Optional Provision 1 (Setback) for the required 16-foot setback has been amended to allow new construction incorporating an existing structure be built to the established setback. The language now correctly identifies the established setback as being from the back of the existing sidewalk.
15. Optional Provision 2 (Parking) has been modified to request to not provide required parking for the permitted uses until such a time occurs when the owners have the ability to provide the required parking.
16. The petitioner has amended Optional Provision 3 (Streetscape) and added Optional Provision 4 to incorporate Yadkin Avenue into the request as it is subject to this requirement as well. This added language requests that a modified streetscape along Yadkin Avenue to allow a six-foot sidewalk at the back of the curb with no planting strip.
17. The petitioner has also added office, retail and personal services as allowable uses in addition to the proposed restaurant.
18. The petitioner has removed the sentence regarding lighting from *Landscaping* and placed it under the new *Lighting* heading. A note has been added under *Lighting that states "wall pak" lighting will not be allowed.*
19. The sentence under *Landscaping* regarding planting strip along N. Davidson Street has been removed as this is an optional provision being requested.
20. "Yadkin" Avenue is now spelled correctly on the site plan.

VOTE

Motion/Second:	Lathrop/Labovitz
Yeas:	Allen, Labovitz, Lathrop, and Walker
Nays:	Eschert
Absent:	Nealon
Recused:	Johnson

**ZONING COMMITTEE
DISCUSSION**

Planning staff presented this item to the Committee, briefly describing the request and noting that it had previously been before the Zoning Committee, but was automatically deferred because the vote failed to pass (3-2 vote). A Committee member asked for confirmation if anything had changed since the last meeting with respect to securing more parking for the project, and staff confirmed that the conditions were the same. A Commissioner not present at the last Zoning Committee meeting asked for more details regarding the proposal. Staff responded by providing more information regarding intent to phase the project, the petitioner continuing talks with the YMCA about additional parking, and staff support due to its proximity to a transit station.

The Committee suspended the rules to allow NoDa Neighborhood Association Brett Rice to speak about the project and parking conditions in NoDa. Ms. Rice voiced support for the rezoning request, and NoDa's continuing efforts to encourage and enhance a pedestrian-oriented environment suitable for walking and bicycling to points of interest. She stated that it did not seem fair to penalize one prospective business owner for longstanding issues with parking. She also voiced interest in the City supporting the NoDa community via the possible construction of a parking structure in the future. She stated that the Association has been working with Planning staff person Kathy Cornett on a *Rails to Trails Greenway* project to further support walkability and connectivity. Ms. Rice confirmed there is no official parking agreement between the Association and the YMCA, and noted that several businesses in the area lack adequate parking.

A Committee member asked if the YMCA decides to expand its facilities then what would be the implications for parking. Staff responded the question posed was more technical in nature, and that may not be feasible to receive a response from Ms. Rice. Ms. Rice noted there were one or two underutilized parking lots in the area. A Commissioner noted that his vote would stay the same as the last time because of the petitioner's comfort level with establishing a business here under known conditions. Another Commissioner noted his vote would remain the same because of concerns with the traffic conditions. Ms. Rice stated that persons familiar with the NoDa area understand the conditions and that walking a distance comes with the territory.

There was no further discussion of this petition.

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

MINORITY OPINION

Commissioner Eschert noted concern about the traffic flow and lack of parking in the area.

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:
 - Reuse, reface, and expand an existing one-story, 2,445 square foot building on the lot fronting N. Davidson Street for the purpose of establishing a restaurant.
 - Allow all other uses in the TOD-M zoning district.

- Expand the existing building on North Davidson Street to the rear; add one story on the front portion of the building with a deck and add two stories in the rear portion of the structure. Building will be two stories in front and stepped back to three stories in the rear. Proposed improvements will result in an increase in building height from the original 15 feet to a maximum 39 feet.
- Use of lot on Yadkin Avenue as access for loading private recycling and garbage collection. Lot will be regraded and bit paved to accommodate service loading and refuse collection.
- Access between the two lots will be provided via a five foot access easement serving as a walkway (to be lighted).
- Landscape screening along the rear of the lot facing N. Davidson Street.
- A 10-foot wide landscape buffer along the exterior property line abutting R-5 zoning. The buffer width may be reduced to eight feet with the installation of a masonry wall that is six to eight feet in height.
- Building elevations utilizing tile artwork to be coordinated with a local artist to fit in with NODA community.
- Wall mounted lighting on both elevations (for aesthetic purposes and to light walkway linking both lots in this rezoning petition to the sidewalk along North Davidson Street).
- Optional Provisions:
 - To allow new construction incorporating an existing structure to remain at the established setback and identified as being from the back of the existing sidewalk along North Davidson Street.
 - To not require parking for the permitted uses until such time that the owners have the ability to provide the required parking.
 - To allow the existing streetscape on North Davidson Street to remain.
 - To allow a modified streetscape along Yadkin Avenue to allow a six foot sidewalk at the back of the curb with no planting strip.
 - To allow maneuvering within the Yadkin right-of-way for refuse/recycling collection purposes.
 - To allow the loading/service area between the principal use and setback.
 - To allow the loading/service area to abut a property that has a residential use and/or zoning.
- **Public Plans and Policies**
 - The *North Charlotte Plan* (1995) recommends neighborhood commercial land uses for this parcel. The *Draft Blue Line Extension 36th Street Transit Station Area Plan* recommends transit supportive uses for this parcel, including vertical and horizontal mixed use and retail uses, with a height limit of 50 feet. The station area planning effort for the Parkwood through Tom Hunter stations is currently in development and is expected to begin the review and adoption process in 2013.
 - This petition is consistent with the *North Charlotte Plan* and the *Draft Blue Line Extension 36th Street Transit Station Area Plan*.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Transportation:** No issues.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** Not applicable.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.

- **Engineering and Property Management:** No issues.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation Department:** No issues.
 - **Urban Forestry:** No issues.
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ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:** The following explains how the petition addresses the environmentally sensitive site design guidance in the *General Development Policies-Environment*.
 - This site meets minimum ordinance standards.
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OUTSTANDING ISSUES

- No issues.
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Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Site Plan
- Community Meeting Report
- Charlotte Department of Neighborhood & Business Services Review
- Transportation Review
- Charlotte Fire Department Review
- Engineering and Property Management Review
- Mecklenburg County Land Use and Environmental Services Agency Review
- Mecklenburg County Parks and Recreation Review
- Urban Forestry Review

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