

<b>REQUEST</b>	Current Zoning: B-1 (neighborhood business) Proposed Zoning: MUDD-O (mixed use development, optional)
<b>LOCATION</b>	Approximately 1.5 acres located on the north side of East 7 <sup>th</sup> Street between Clement Avenue and Pecan Avenue. (Council District 1 - Kinsey)
<b>SUMMARY OF PETITION</b>	The petition proposes to allow the development of up to 95 multi-family residential dwelling units, at a density of 63 units per acre, with related amenities and accessory uses.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	Various 7 <sup>th</sup> Street Progression Partners, LLC c/o Bryan Barwick John Carmichael, Robinson Bradshaw & Hinson, P.A.
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 33
<b>STATEMENT OF CONSISTENCY</b>	This petition is found to be consistent with the <i>Elizabeth Area Plan</i> , based on information from the staff analysis and the public hearing, and because: <ul style="list-style-type: none"> <li>• The single use multi-family development is a well-suited land use for the area.</li> </ul> <p>Therefore, this petition is found to be reasonable and in the public interest based on the information from the staff analysis and the public hearing , and because:</p> <ul style="list-style-type: none"> <li>• The site is located in a primarily single family residential neighborhood but on a street with a mix of uses that includes entertainment, retail, office and multi-family residential; and,</li> <li>• The site plan is designed to be compatible with the abutting single family residential through limitations on density, height, location of buildings and screening;</li> </ul> <p>By a 5-0 vote of the Zoning Committee (motion by Commissioner Ryan seconded by Commissioner Sullivan).</p>

<b>ZONING COMMITTEE ACTION</b>	The Zoning Committee voted 5-0 to recommend <b>APPROVAL</b> of this petition with the following modifications: <ol style="list-style-type: none"> <li>1. Reference to courtyard walls has been removed from Optional Provision B (Optional Provision A on revised site plan). The modified note now specifies how far decorative paving, steps and stoops are proposed to encroach into the setback, as well as the maximum amount of the setback area impacted by the encroachment (up to three feet into the 21-foot zoning setback).</li> <li>2. Petitioner has moved Option C to Option B, removed the reference to dining and providing new language that proposes an outdoor amenity area containing landscaping, hardscape, seating elements, an outdoor water drinking fountain and possibly tables to be located on the 13-foot wide portion of the sidewalk along the Site's frontage on East 7<sup>th</sup> Street. The new language further states that the improvements will not obstruct the sidewalk such that an eight-foot wide clear sidewalk zone will be maintained.</li> <li>3. Removed Architectural Standards Note D as the zoning standards allow balconies to project up to two feet with a minimum clearance of ten feet from grade.</li> <li>4. Removed references to adopted area plans on Sheet RZ-1.0 of the site plan.</li> <li>5. Confirmed type of residential product proposed as multi-family under Development Information on Sheet RZ-2.0.</li> </ol>
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6. Moved the proposed buffer and screening materials out of the abutting alleyway and onto the rezoning site.
7. Addressed Urban Forestry's comments by adding Environmental Features Note D that states tree preservation will be coordinated during land development with City Engineering and Urban Forestry.
8. Under Lighting Note B, maximum height of freestanding lighting is now noted as 25 feet.
9. Note C from the "General Provisions" has been removed from the site plan.
10. The number of proposed units has been reduced from 95 to 91.
11. Reference to Deed Restriction Setback has been removed from Sheets RZ-2.0 and RZ-2.3.
12. Sheet RZ-2.0 has been revised to show planting area in front of eight-foot screen wall along portions of property lines.
13. Sheet RZ-2.0 has been revised to show proposed bicycle parking locations.
14. Sheet RZ-2.0 has been revised to show proposed seat height freestanding walls, potential drinking fountain locations and potential tree in grate.
15. Sheet RZ-2.0 has been revised to show a new planting area to be extended along a portion of the driveway accessing East 7<sup>th</sup> Street.
16. Sheet RZ-2.0 has been revised to show a 25-foot deed restriction setback along East 7<sup>th</sup> Street.
17. Sheet RZ-2.1 has been modified to note opaque screen wall (final height to be determined), include the 21-foot Zoning Setback and 25-foot Deed Restriction Setback, and reference development notes for installation, maintenance, and removal responsibilities with respect to proposed landscaping materials.
18. Sheet RZ-2.1 has been modified to identify "3 story portion of building with maximum 40 feet as measured from average final grade" on "Fourth Level Schematic Architecture" detail.
19. Sheet RZ-2.1 has been modified to identify "4 story portion of building with maximum 52 feet as measured from average final grade" on "Fourth Level Schematic Architecture" detail.
20. Sheet RZ-2.20 has been modified to note locations of proposed building materials on all elevations.
21. A note has been added to Sheet RZ2.2 that states certain designated windows will have translucent glass in window units (50%).
22. New Sheet RZ-2.3 labeled "Schematic Required Planting Plan" identifies proposed plantings to screen new building from adjacent residential development.
23. New General Provisions Note C provides language regarding the zoning setback along 7<sup>th</sup> Street, and permissible encroachments up to 3 feet into the zoning setback. No portion of the building to be constructed on the site may encroach into the zoning setback.
24. The Optional Provisions being requested have been renumbered and the wording of some have been modified as follows:
  - a. Optional Provision B is now Optional Provision A and the language regarding building entrances and entry features has been revised to remove "courtyards and "courtyard walls", and add that "patios and upper level balconies and architectural features may encroach up to 3 feet into the Zoning Setback."
  - b. Optional Provision C for the width of the sidewalk is now Optional Provision B.
  - c. Optional Provision D regarding outdoor tables, chairs and dining is now Optional Provision C. Language has been modified with the removal of reference to "dining." Language now proposes "an outdoor amenity area containing landscaping, hardscape, seating elements, an outdoor water drinking fountain and possibly tables to be located on the 13-foot wide portion of the sidewalk to be installed along the Site's frontage on East 7<sup>th</sup> Street. The new language further

- states that these improvements will not obstruct the sidewalk such that an 8-foot wide clear sidewalk zone will be maintained.
- d. Optional Provision E pertaining to on-street parking and reduction in the width of the planting strip is now Optional Provision D.
  - e. New Optional Provision E provides language proposing that a free standing seat wall may be constructed on the 13-foot wide portion of the sidewalk located along the Site's frontage on East 7<sup>th</sup> Street within the Zoning Setback.
25. The Permitted Uses development note has been amended to reflect a decrease in the number of units from 95 to 91.
  26. Transportation Note B has been modified to state a minimum of one parking space per bedroom will be provided on the site.
  27. Transportation Note C has been modified to note that the location of the bicycle parking is depicted on the Rezoning Plan.
  28. Architectural Standards Note B has been modified to reference the 4-story components of the building and the site adjacent to the relevant portion of the building.
  29. Petitioner has added new Architectural Standards notes regarding the following:
    - a. Front corner of the building adjacent to the driveway into the site may be a chamfered corner, or the corner of the building may be at a 90 degree angle at the option of the Petitioner.
    - b. Permitted exterior building materials are designated and labelled on architectural renderings provided. Permitted exterior buildings will include brick, stone and similar architectural masonry products, stucco and hardi-panel (cementitious siding) or a combination thereof.
    - c. Brick to be installed on the exterior of the building will be full-body cavity wall masonry. Use of thin brick or exposed non-architectural CMU masonry will not be allowed.
    - d. Vinyl will not be a permitted exterior cladding material, provided, however, that vinyl may be utilized on the soffits of the building and vinyl windows may be installed on the building.
    - e. EIFS (synthetic stucco), aluminum siding, corrugated metal and CMU block (concrete block) will not be permitted exterior materials for the building to be constructed on the site.
    - f. Translucent windows must be utilized on the third and fourth floors of the portions of the rear elevation of the building that are more particularly designated on the schematic architectural rendering of the rear elevation of the building, with clear windows being allowed on all other portions of the proposed building.
    - g. Installation of balconies limited to only those portions of the rear elevation of the building that are more particularly designated on the schematic architectural rendering of the rear elevation of the building. Balconies may be installed on any portions of the side and front elevations of the building to be constructed on the Site.
    - h. In the event a waiver of the Deed Restriction Setback is obtained, each ground floor dwelling unit facing East 7<sup>th</sup> Street will have steps and a stoop or patio located at the front entrance into the dwelling unit from East 7<sup>th</sup> Street, and the entry to the stoop or patio from East 7<sup>th</sup> Street will not be gated or locked. Each such stoop or patio will have a minimum size of 75 square feet.
  30. Modified notes under Setback and Yards/Streetscape and Landscaping/Screening as follow:
    - a. Note A has been modified to state that subject to the Optional Provisions, development of the Site will comply with the 21-foot Zoning Setback and the side yard rear requirements of the MUDD zoning district.

- b. New Note D proposes installation and maintenance of an 8-foot tall brick screen along the rear property line of the Site adjacent to the alley, and along portions of the Site's western property line.
  - c. New Note E provides language regarding the installation of a gate in the 8-foot tall brick screen wall.
  - d. New Note F identifies the conceptual landscaping plan as provided on Sheet RZ-2.3, providing information regarding locations, types, quantities and minimum height at the time of installation of the trees and shrubs.
  - e. New Note G includes language regarding placement of landscape materials within the alley and approval by Duke Energy. The note states that in the event Duke Energy or the City of Charlotte prohibits the installation of trees, shrubs and landscape materials in the 25-foot alley, the petitioner will not be required to install any trees, shrubs and landscape materials within the 25-foot alley. Note further states that petitioner will remove any landscape materials it installs in the 25-foot alley in the event that any property owner with a right to use the 25-foot alley for vehicular and pedestrian access seeks to enforce such right and requires the removal of the materials.
  - f. New Note H states petitioner will maintain, at their cost and expense, the perimeter landscaped areas (including landscaping in the alley).
  - g. New Note I provides language stating that prior to issuance of a certificate of occupancy, the petitioner will install irrigation for the perimeter landscaping for the Site pursuant to the conceptual perimeter plan. Irrigation will not be required to be installed within the alley located to the rear of the Site.
  - h. New Note J proposes an outdoor amenity area consisting of landscaping, hardscape, seating elements, an outdoor water drinking fountain and possibly tables to be located on the 13-foot wide portion of the sidewalk to be installed along the Site's frontage.
31. Provided new language under Urban Open Space heading that states Urban Open Space will be located on the site as shown on the site plan. The Urban Open Space will be a passive area with no programed space, and no outdoor amenities, such as a grill, may be installed within the Urban Open Space.
  32. Modified Lighting Note A to state that all freestanding lighting fixtures installed on the Site (excluding street lights, lower, decorative lighting that may be installed along the driveways, sidewalks and parking areas and landscaping lights) 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.
  33. Added Lighting Note D that states that the lighting to be installed on the Site to illuminate the parking lot located to the rear of the building shall be soft light in the warm spectrum.
  34. Added new heading titled "Construction Activities" with following notes:
    - a. Note A states that construction activities may only be conducted on the Site from 7 a.m. to 6 p.m., and that construction activities conducted entirely within the enclosed building may occur at any time.
    - b. Note B states the contractor(s) will keep the construction site in a clean and orderly condition and will promptly clean the adjacent roads and sidewalks as needed or as otherwise required by applicable regulations.
  35. Added new heading "Trash and Recycling Removal" with language that states in the event that a private trash service is utilized to empty trash and recycling containers located on the Site, such containers may be emptied only between the hours of 7 a.m. and

	6 p.m.
	36. Removed all references to deed restrictions and waivers on all sheets of the site plan.
	37. Removed "deed restriction setback" on all applicable sheets of the site plan.
	38. Corrected details on Sheet RZ-2.1 to reflect the proposed screen wall is out of the alley.
	39. Clouded all new notes and revised notes.
	40. Provided details of the proposed seat wall.

**VOTE**

Motion/Second:	Ryan/Sullivan
Yeas:	Dodson, Eschert, Nelson, Ryan and Sullivan
Nays:	None
Absent:	Labovitz and Walker
Recused:	None

**ZONING COMMITTEE DISCUSSION**

Staff presented this item to the Committee, noting that several notes had been added to the site plan or modified since the public hearing, many of which were a result of the petitioner working with the neighboring property owners. Staff stated that some of the new notes resulted in new outstanding issues that had since been addressed by the petitioner. Staff reviewed the modifications with the Committee, including but not limited to modifications to the Optional Provisions, and new notes pertaining to Architectural Standards, Setback and Yards/Streetscape and Landscaping/Screening, Urban Open Space, Lighting, Construction Activities, and Trash and Recycling Removal.

A Committee member requested clarification regarding the building height, and staff proceeded to utilize site plan details to orient the Commissioners to the portions of the building proposed to be a maximum of 40 feet in height, and areas of the structure with a 52-foot height. Staff discussed the portion of the structure with a maximum 52-foot building height in relation to the residential properties on the opposite side of the abutting alleyway.

A Committee member asked if there were other utilities besides Duke Energy within the alleyway. Another Committee member responded that plantings over utilities would not be allowed and that the plantings in the alleyway were at the request of the neighbors. Staff clarified that there was a note on the site plan stating that installation, maintenance, and removal of planting materials would be the responsibility of the petitioner.

A Commissioner stated that there had been other proposals for this tight and difficult site, and that the one now before the Committee works from a design perspective. Another Committee noted that this project was an example of the petitioner and surrounding property owners working together to ensure a project contained design elements in the best interest of the neighborhood. There was no further discussion of this petition.

**STAFF OPINION**

Staff agrees with the recommendation of the Zoning Committee.

**FINAL STAFF ANALYSIS**  
**(Pre-Hearing Analysis online at [www.rezoning.org](http://www.rezoning.org))**

**PLANNING STAFF REVIEW**

• **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Up to 91 multi-family units in one building with ground level parking, and a project density of 63 units per acre.
- Up to 2,100 square feet of residential amenities (such as a fitness center) and a 750-square

foot leasing office.

- Urban open space areas.
- Building height ranging from 40 feet up to a maximum 52 feet (three to four stories maximum).
- Installation of an eight-foot screen wall and planting area to screen rear buildings and associated parking areas from abutting or adjacent residential properties.
- Vehicular access to the site via East 7th Street.
- An eight-foot sidewalk and eight-foot planting strip along the frontage on East 7th Street.
- A 21-foot setback along East 7th Street from future back of curb.
- Freestanding walls in front of portions of the proposed building will be seat height.
- Architectural Standards notes pertaining to building height, articulation, materials, window treatment, placement of balconies, and orientation of patios.
- Building elevations identifying proposed building materials, with North, East, West, and 7<sup>th</sup> Street perspectives.
- Proposed bicycle parking locations.
- Maximum height of any freestanding lighting fixture installed on site will be 25 feet.
- Development notes stating construction activities will be conducted on the site daily from 7:00 a.m. to 6:00 p.m., and committing to keeping the construction site in clean and orderly condition.
- Optional requests include:
  - Allowing building entrances and certain entry features encroach up to 3 feet into the setback.
  - Allow the width of the sidewalk to be installed along the site's frontage on East 7th Street to vary from a minimum of eight feet to 13 feet.
  - Allow an outdoor amenity area to be located on the 13-foot wide portion of the sidewalk to be installed along the site's frontage on East 7<sup>th</sup> Street.
  - Allow a reduction in the width of the 8-foot planting strip in the event that on-street parking is installed on East 7th Street adjacent to the Site.
  - Allow the construction of a freestanding seat wall on the 13-foot wide portion of the sidewalk located along the Site's frontage.
- **Public Plans and Policies**
  - The *Elizabeth Area Plan* (2011) recommends a mix of residential/office/retail on this site. The plan states: "These parcels should be a mix of small scale neighborhood-serving retail, office, and/or residential. Small-scale neighborhood-serving retail or office uses on the ground floor with office and/or residential above is appropriate, as are single-use residential, office, or retail uses. Single-use residential development may have densities greater than 22 dwelling units per acre. Building should not exceed 40 feet in height and should step down to adjacent single family parcels. Primary or secondary parking and vehicle access should be from alleys, if possible."
  - The proposed use and density is consistent with the *Elizabeth Area Plan*. While the maximum height of 52 feet is greater than what is recommended by the plan, the height is only 40 feet where abutting single family residential homes or zoning.

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

- **Charlotte Area Transit System:** No issues.
  - **Charlotte Department of Neighborhood & Business Services:** No issues.
  - **Transportation:** No issues.
  - **Charlotte Fire Department:** No issues.
  - **Charlotte-Mecklenburg Schools:** No issues.
  - **Charlotte-Mecklenburg Storm Water Services:** No issues.
  - **Charlotte-Mecklenburg Utilities:** 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*.
    - Minimizes impacts to the natural environment by building on an infill lot.
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**OUTSTANDING ISSUES**

- No issues.
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**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Charlotte Area Transit System Review
- Charlotte Department of Neighborhood & Business Services Review
- Charlotte Department of Solid Waste Services Review
- Transportation Review
- Charlotte Fire Department Review
- Charlotte-Mecklenburg Schools Review
- Charlotte-Mecklenburg Storm Water Services Review
- Charlotte-Mecklenburg Utilities 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