

<b>REQUEST</b>	Current Zoning: CC (commercial center) Proposed Zoning: CC SPA (commercial center, site plan amendment)
<b>LOCATION</b>	Approximately 1.79 acres located on the northeast corner at the intersection of Nations Ford Road and Tyvola Road. (Council District 3 - Mayfield)
<b>SUMMARY OF PETITION</b>	The petition proposes to allow a 3,010-square foot automobile service station and a 2,500-square foot commercial building.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	Corporate Trust Properties NC LLC Pavilion Development Company Bohler Engineering, NC PLLC
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 19
<b>STATEMENT OF CONSISTENCY</b>	<p>This petition is found to be inconsistent with the <i>Southwest District Plan</i>, based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> <li>• The Plan recommends retail uses with the exception of automobile service stations.</li> </ul> <p>However, 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>• This plan and the recommended uses were approved a long time ago. Given the context of area today, this is a reasonable land use for this particular site; and</li> <li>• The petitioner has agreed to address site plan issues 2 through 8;</li> </ul> <p>By a 7-0 vote of the Zoning Committee (motion by Commissioner Nelson seconded by Commissioner Walker).</p>

<b>ZONING COMMITTEE ACTION</b>	<p>The Zoning Committee voted 7-0 to <b>APPROVE</b> this petition with the following modifications and with the petitioner's commitment to address outstanding issues 2 through 8 prior to the City Council decision on this case:</p> <ol style="list-style-type: none"> <li>1. CDOT withdrew their opposition to the left-in only access off the right-in driveway and no longer has any outstanding issues with the petition.</li> <li>2. Provided building, dumpster enclosure and pump island elevations for all sides as part of the rezoning plans.</li> <li>3. Revised the Site Area under Site Data for Parcel 4A to reflect the acreage for the parcel after the proposed subdivision (total site acreage minus acreage of parcel 4B).</li> <li>4. Removed the "Max SF allowed: 16,000 SF. Office, 10,500 SF. Retail, 24,000 SF. Restaurant" from the Site Data.</li> <li>5. Removed the "+/-" in proposed building height for Parcel 4A.</li> <li>6. Revised the Proposed Floor Area Ratio, under the Site Data, for both parcels to reflect the proposed building area compared to proposed acreage for each parcel.</li> <li>7. Removed Note B in its entirety and replaced with the following: First paragraph - "Parcel 4A - All uses in the CC Zoning District except automobile service stations, building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows." Second paragraph - "Parcel 4B - All uses in the CC Zoning District except automobile service stations, building material sales, dwellings, and eating/</li> </ol>
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drinking/entertainment establishments with drive-in service windows. The building layout is conceptual in nature; the petitioner reserves the right to not develop this parcel or to make minor site plan adjustments that match the general intent of the plan as shown on this site plan and in accordance with Section 6.207.”

8. Deleted Note C in its entirety and replaced with the following: “Parcel 4A may be developed with a maximum 3,010 SF building excluding permitted accessory structures. Parcel 4B may be developed with a maximum 2,500 SF building excluding permitted accessory structures.”
9. Revised the second paragraph under Note E. as follows: “Landscape strips and islands shall be created to break the visual impact of the parking areas.”
10. Revised the labels for the 35-foot setback to refer to the setback line.
11. Provided the 35-foot wide landscaped buffer with berm between Nations Ford Road and parking areas and dumpster enclosure north and south of the building.
12. Revised the third paragraph under Note E. as follows: “Continuous landscaping strips and islands shall be created along Nations Ford Road to break up the visual impact of the parking areas as shown on the site plan.”
13. Provided a revised “Section Thru Landscaped Buffer” detail from Petition 1997-015 showing the eight-foot planting strip, six-foot sidewalk, 35-foot wide buffer with a three- to four-foot high berm, tiered evergreen plantings and small maturing trees on the rezoning site plan.
14. Amended the label “Landscaping per master plan” to state “Landscaped buffer (see inset detail)” and clearly indicate the locations of the berm on the site plan.
15. Revised Note F by removing the following language: “As stated in Note 16 of the special conditions associated with the overall rezoning plan, petition #97-15,” and making all references to “parcel” and “building” plural.
16. Added the following paragraph to Note F: “The buildings must be designed to encourage and complement the pedestrian scale interest and activity by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street and right-in access driveway off Tyvola on at least 50% of the length of the first floor frontage facing the street and right-in access driveway.”
17. Amended Note G to remove the following: “per Note 6 of the special conditions of the overall rezoning plan, petition #97-15.”
18. Eliminated the language, under Note H, referring to Note 4 of the overall rezoning plan, petition #97-15 and references to the “shopping center” signs.
19. Added a note under General Provisions stating that the petitioner will be required to file an administrative amendment to Petition 1997-015.

**VOTE**

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

**ZONING COMMITTEE DISCUSSION**

Staff reviewed the petition and noted that it is inconsistent with the *Southwest District Plan*. The petitioner addressed a number of outstanding issues and verbally agreed to address 2 through 8 of the remaining issues. One commissioner noted a desire for mechanical equipment to be move from the façade facing the public street. There was no further discussion.

**STAFF OPINION**

Staff disagrees with the recommendation of the Zoning Committee. The petition is inconsistent with the *Southwest District Plan*, as amended by rezoning petition 1997-015. There have not been significant changes in development patterns in this area since petition 1997-015 was approved.

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

**PLANNING STAFF REVIEW**

- **Background**

- Petition 1988-001 rezoned 22.25 acres at the northeast corner of the intersection of Nations Ford Road and Tyvola Road to B-1SCD (business shopping center district) to allow for a mixed use development including hotels and offices. Other business and retail uses were not permitted.
- Petition 1997-015 approved in 1998 rezoned 22.25 acres at the northeast corner of the intersection of Nations Ford Road and Tyvola Road from B-1SCD (business shopping center district) to CC (commercial center) to allow for office, retail, institutional, eating/drinking/entertainment establishments and hotel uses. The rezoning included eight parcels.
- The proposed development is located on Parcel 4 of the overall commercial center site plan from Petition 1997-015. Parcel 4 is located at the corner of Nations Ford Road and Tyvola Road. The plan allows 16,000 square feet of office or 10,500 square feet of retail or 24,000 square feet of eating/drinking/entertainment establishments on Parcel 4. The plan excludes automobile service stations, building material sales and dwellings.

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Divides Parcel 4 into two parcels; Parcel 4A is 1.28 acres and Parcel 4B is 0.52 acres.
- Modifies the permitted uses for Parcel 4A to include automobile service stations.
- Reduces the maximum development area on Parcel 4 from 16,000 square feet of office or 10,500 square feet of retail to a 3,010-square foot automobile service station on Parcel 4A and a 2,500-square foot commercial building on Parcel 4B. Reduces the total maximum for eating/drinking/entertainment uses from 24,000 square feet to 21,500 square feet.
- Adds a limit of 19 feet, excluding the architectural roof feature, for building height on Parcel 4A.
- Changes the right-in/right-out access on the north side of the site on Nations Ford Road to a full movement access, with a southbound left-turn lane into the center.
- Replaces the existing back of curb sidewalk along Tyvola Road with an eight-foot planting strip and six-foot sidewalk.
- Provides a four-foot planting strip and five-foot sidewalk along the eastern edge of the site along the right-in access drive. Provides a five-foot screening strip and five-foot sidewalk along the northern boundary of the site along the existing private access easement named Tyvola Glen Circle.
- Adds a maximum height of 25 feet for freestanding lights on Parcels 4A and 4B.
- Adds a CATS bus stop and waiting pad on the north side of Tyvola Road between Nations Ford Road and the right-in access driveway.
- Provides four sided building elevations, elevations of the dumpster enclosure and pump islands.
- States that buildings must be designed to encourage and complement the pedestrian scale interest and activity by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street and the right-in access driveway off of Tyvola Road on at least 50% of the length of the first floor frontage facing the street and right-in access driveway.

The site plan accompanying this petition contains the following provisions carried over from Petition 1997-015:

- Provides a landscaped buffer along Nations Ford Road.
- Preserves existing trees in a tree save area near the intersection of Tyvola Road and Nations Ford Road.
- Limits the height of the building on Parcel 4B to a maximum of two stories.
- Specifies that building elevations fronting Nations Ford Road will include materials such as brick, masonry stucco, pitched, mansard roofs, decorative parapets, awnings, palladian windows, or mullioned windows in order to respect the residential nature of and view from residences fronting Nations Ford Road.

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- Limits ground mounted signage for the individual parcels to a maximum of four feet high and 50 square feet.
  - **Public Plans and Policies**
    - The *Southwest District Plan* (1991), as amended by Petition 1997-015, recommends a mix of uses including office, hotel and other uses permitted in the CC (commercial center) zoning district including eating/drinking/entertainment establishments and retail. Automobile service stations, building material sales and dwellings are prohibited uses. Prior to Petition 1997-015, the *Southwest District Plan* recommended a mixed use development, providing housing and employment with hotels and office uses at the northwest quadrant of the I-77 and West Tyvola Road intersection. Other business and retail uses were not permitted.
    - The petition is inconsistent with the *Southwest District Plan*, as amended by rezoning petition 1997-015. The proposed land use is also inconsistent with the intent of the *Southwest District Plan's* initial recommendation for mixed use development providing employment and housing opportunities. There have not been significant changes in development patterns in this area since petition 1997-015 was approved.

**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 comments received.
  - **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.
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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**

- The petitioner should:
    1. Change the proposed use for Parcel 4A to a use that is permitted in CC excluding automobile service stations, building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows.
    2. File for an administrative amendment to Petition 1997-015 to remove building square footage from the allotment for Parcel 4 and reduce the eating/drinking/entertainment establishment's square footage allotment by 2,500 square feet. The administrative amendment must be filed and ready for approval prior to a decision on the rezoning. Add a note to the site plan requiring filing on an administrative amendment as described in the previous sentence.
    3. Amend Note B, Parcel 4A to remove "automobile service stations" and "Petitioner is currently showing unsupported use and proposed revision to special conditions for automobile service station use."
    4. Amend Note F. to make the word "parcel" at the end of the first sentence plural.
    5. Delete the proposed sign location and label.
    6. Increased the width of the sidewalks on the right and left side of the building from five feet to six feet to allow for "shy zone" next to the building.
    7. Increase the width of the sidewalk in front of the building from six feet to eight feet to allow for the "shy zone" and parked cars, curb stops should be used in front of the building.
    8. Swap the labels of the left and right elevations to correct match the images.
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**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Pre-Hearing Staff Analysis
- Site Plan
- Locator Map
- Community Meeting Report
- Charlotte Area Transit System Review
- Charlotte Department of Neighborhood & Business Services Review
- Transportation 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

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