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<b>REQUEST</b>	Current Zoning: UR-C(CD) (PED) (urban residential - commercial, conditional, pedestrian overlay), B-1 (PED) (neighborhood business, pedestrian overlay) and R-8 (single family residential) Proposed Zoning: B-2 (PED-O) (general business, pedestrian overlay, optional), UR-C (PED-O) (urban residential – commercial, pedestrian overlay, optional) and R-8MF (PED-O) (multi-family residential, pedestrian overlay, optional), with five-year vested rights
<b>LOCATION</b>	Approximately 1.99 acres located on the northeast corner of the intersection of Baxter Street and South Kings Drive and the south side of Luther Street between Cecil Street and Cherry Street. (Council District 1 - Kinsey)
<b>SUMMARY OF PETITION</b>	The petition proposes to allow a mixed use development including a 275,000-square foot building, a 221,000-square foot parking structure with up to 7,000 square feet of commercial uses on the street level, and up to eight single family attached dwelling units.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	Midtown Area Partners II, LLC and Stonehunt, LLC Midtown Area Partners II, LLC 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: 6
<b>STATEMENT OF CONSISTENCY</b>	<p>The majority of the proposed land use is found to be consistent with the <i>Midtown Morehead Cherry Area Plan</i>; however, the building heights and some of the setbacks and streetscapes are found to be inconsistent the <i>Midtown Morehead Cherry Area 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 a mixture of residential, office and retail for the majority of the site along South Kings Drive, Baxter Street, Cecil Street, Luther Street and Cherry Street north of the intersection with Main Street; and</li><li>• The plan recommends residential uses at eight units per acre for the portion of the site fronting Cherry Street south of Main Street; and</li><li>• The plan recommends a height plane of one foot of building height for every ten feet of distance from single family residential zoning; and</li><li>• The plan recommends a 24-foot setback along South Kings Drive; and</li><li>• The plan recommends on-street parking along South Kings Drive and specifies streetscape improvements for Baxter, Luther, Cherry, and Cecil Streets.</li></ul> <p>Therefore, this petition is found to be reasonable and in the public interest, based on information from the staff analysis and the public hearing, and because this rezoning will allow:</p> <ul style="list-style-type: none"><li>• A mixed use development; and</li><li>• A pedestrian-friendly environment with ground floor commercial facing the Metropolitan development; and</li><li>• A height transition to the Cherry neighborhood; and</li><li>• The tallest building in the development to be located along South Kings Drive approximately 230 feet away from Cherry Street, and separated by office uses from the single family neighborhood; and</li><li>• The proposed parking structure to be screened by the townhomes on Cherry Street;</li></ul>

By a 5-0 vote of the Zoning Committee (motion by Commissioner

Labovitz seconded by Commissioner Walker).

<b>ZONING COMMITTEE ACTION</b>	<p>The Zoning Committee voted 5-0 to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Amended the graphics on Sheet RZ1.7 for Section B to accurately reflect the pedestrian overlay height planes as required by the Zoning Ordinance and amended all the graphics on Sheet RZ1.7 so that they are to scale.</li> <li>2. Amended the street wall elevations on Sheet RZ1.8 to accurately reflect the Area C conceptual site plan.</li> <li>3. Provided metes and bounds of the proposed zoning boundaries.</li> <li>4. Staff has rescinded the request to eliminate Optional Provision H if Cecil Street is converted to a private street not required by the Subdivision Ordinance.</li> <li>5. Staff has rescinded the request to amend Optional Provision K to replace Cecil Street with Baxter Street if Cecil Street is converted to a private street not required by the Subdivision Ordinance. Staff rescinded this request because the proposed abandonment will not take place prior to City Council decision.</li> <li>6. Clarified the width of the sidewalk along Kings Drive in front of Development Area B.</li> <li>7. Specified that primary entrances will be oriented to and at street grade along South Kings Drive for uses along the street level of Areas A and B.</li> <li>8. Removed existing zoning boundaries within the project area on Sheet RZ 1.1.</li> <li>9. Highlighted the rezoning site boundary on Sheet RZ1.1.</li> <li>10. Labeled the zoning boundary lines on Sheet RZ1.1.</li> <li>11. Provided information in the development data table related to the percentage of open space provided.</li> <li>12. Added an optional request opting out of providing the ten-foot buffer along a portion of the southern boundary of the site and deleted Setback and yards/streetscape/buffer Note D.</li> <li>13. Specified architectural details for the screen wall along Cecil Street.</li> <li>14. Provided more detailed commitments for the treatment of blank walls above the minimum PED (pedestrian overlay) requirements.</li> <li>15. Clarified the height for Development Area C in Architectural Standards and Design Note C.</li> <li>16. Adjusted the graphics on Sheets RZ1.7 and 1.8 to match and accurately represent the proposed height.</li> <li>17. Added an optional provision allowing the buildings in Area C to have a maximum height of 48 feet.</li> <li>18. Added planters as one of the potential amenities provided in the setback along South Kings Drive.</li> <li>19. Added an optional provision to not require side and rear yards along the site's southern boundary line.</li> <li>20. Specified that in the event Cecil Street is abandoned and converted to a private street, a public access easement shall be provided to allow travel between Baxter and Luther Streets.</li> </ol>
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**VOTE**

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

**ZONING COMMITTEE DISCUSSION**

Staff presented the petition to the Zoning Committee. There was no further discussion.

**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****• Background**

- Petition 2005-060 rezoned the portion of the site located between South Kings Drive and Cecil Street from B-1 (neighborhood business) to UR-C(CD) (urban residential, conditional) to allow up to 12,000 square feet of retail and restaurant uses and associated surface and structured parking as part of the Metropolitan development plan.
- Petition 2012-050 established PED (pedestrian overlay district) zoning over a majority of the site excluding a 0.207 acre portion facing Cherry Street south of the intersection of Cherry Street and Main Street.

**• Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Divides the site into three development areas (A, B, and C).
- Establishes the pedestrian overlay on the portion of the site currently zoned R-8 (single family).
- Permitted uses, except as noted below, include single family attached dwelling units, multi-family dwellings, planned multi-family dwelling units, dwellings mixed use, eating/drinking/entertainment establishments Type 1 and 2, hotels, art galleries, colleges/universities/commercial/trade schools, business and general offices, retail sales, service uses, private postal services, studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths and jewelry designers.
- Development Area A – proposed zoning to B-2 (PED-O) (general business, pedestrian overlay, optional):
  - Allows a maximum of 275,000 square feet of building area.
  - Maximum building height of 119 feet.
  - Multi-family residential limited to 300 units.
  - Maximum of 225 hotel rooms.
  - Requires ground floor uses located in the building to be devoted to non-residential uses with primary entrances oriented to and at street grade of South Kings Drive.
  - Prohibits single family attached dwelling units.
- Development Area B – proposed zoning to UR-C (PED-O) (urban residential - commercial, pedestrian overlay, optional):
  - Allows a 221,000-square foot structured parking facility and up to 7,000 square feet of ground floor nonresidential uses facing South Kings Drive.
  - Maximum building height of 81 feet along South Kings Drive and 64 feet adjacent to single family zoning.
  - Prohibits residential dwellings, hotels, colleges/universities/commercial and trade schools, and private postal services.
  - Uses on the ground floor or street level of the structured parking facility may only be devoted to nonresidential uses with primary entrances oriented to and at street grade of South Kings Drive. The remaining portions may only be devoted to the structured parking facility.
- Development Area C – proposed zoning to R-8MF (PED-O) (multi-family residential, pedestrian overlay, optional):
  - Allows up to eight single family attached dwelling units and associated accessory uses.
  - Requires the dwelling units to be constructed prior to the issuance of a Certificate of Occupancy for the parking structure.
  - Dwelling units are required to be constructed along the frontage on Cherry Street adjacent to the structured parking facility, in order to provide a residential edge.
  - Dwelling units will only have pedestrian access to Cherry Street. No vehicular access will be allowed to Cherry Street.
  - Provides conceptual site plan and elevations for the proposed dwelling units.
  - Maximum height of the single family attached dwelling units is limited to 48 feet along Cherry Street.
- Abandonment of Cecil Street right-of-way (after the zoning decision) which would be converted into a private drive providing access to adjacent parcels and the parking structure.
- Direct vehicular access between Baxter Street and Luther Street via the proposed private drive (formerly Cecil Street) through the parking structure on Development Area B.
- Vehicular access (ingress/egress) to site via Luther Street.

- Pedestrian stair access from South Kings Drive to private drive.
- Preserves the existing CATS bus stop on South Kings Drive.
- Specifies that tree grates, seat walls, planters and other pedestrian amenities and features may be provided in the setback along the site's frontage on South Kings Drive.
- Provides 15,858 square feet of open space.
- Provides building perspectives, elevations, and site cross sections.
- Provides commitments for the screen wall along Cecil Street and increased glazing along Baxter Street to address blank walls.
- Limits height of freestanding lighting to 20 feet.
- Requests the following optional provisions:
  1. Allow the maximum height of the building located in Development Area A to be increased from 69 feet to 119 feet. The plan recommends a height plane of one foot of building height increase per ten feet of distance from single family residential zoning. This option represents about a 50-foot increase in the allowed height nearest to the single family zoning.
  2. Allow the maximum height of the structured parking facility to range from 64 feet to 81 feet. The plan recommends a height plane of one foot of building height increase per ten feet of distance from the single family zoning on the parcel to the south and one foot of height per ten feet of distance from the building setback along Cherry Street. This optional request represents a 24-foot increase in the allowed height along Cherry Street and a ten-foot increase at the single family zoning boundary to the south.
  3. Allow the single family attached dwelling units to have a maximum height of 48 feet. This optional request represents an eight-foot increase in the allowed height along Cherry Street.
  4. Eliminate the requirement for on-street parking along South Kings Drive as recommended by the plan. This is needed to accommodate the existing bus stop on Kings Drive.
  5. Allow a 24-foot setback along South Kings Drive for the first floor of the proposed building in Development Area A and a 16-foot setback for all other floors of the building. The plan recommends a building setback of 24 feet along South Kings Drive.
  6. Allow structural support columns for buildings in Area A to be located within the setback; however, they must be a minimum of 16 feet from the back of the existing curb.
  7. Allow a 22-foot setback along South Kings Drive for the proposed structured parking facility in Development Area B. The plan recommends a building setback of 24 feet along South Kings Drive.
  8. Allow the setback, planting strip and sidewalk along the site's frontage on Luther Street as depicted on the rezoning plan on sheet RZ1.1. The rezoning plan shows a 16-foot setback near the intersection of Luther Street and Cherry Street that increases in width towards South Kings Drive and a six-foot sidewalk and eight-foot planting strip with a one foot utility zone near the intersection of Luther Street and Cherry Street that increases in width towards South Kings Drive. The plan recommends a building setback of 16 feet with an eight-foot planting strip, six-foot sidewalk, and two-foot utility zone.
  9. Allow the setback, planting strip and sidewalk located along the site's frontage on Cecil Street as depicted on the rezoning plan. The rezoning plan shows a six-foot walk and eight-foot planting strip for a portion of the frontage and an eight-foot, six-inch back of curb sidewalk along the building edge.
  10. Allow an eight-foot planting strip and an eight-foot sidewalk along the site's frontage on Baxter Street rather than an eight-foot planting strip, six-foot sidewalk and two-foot utility zone.
  11. Reduce the off-street parking requirement for eating/drinking/entertainment establishments (Type 1 and Type 2) from one space per 125 square feet of area to one space per 600 square feet of area.
  12. Allow surface parking and vehicular maneuvering areas to be permitted between the building in Development Area A and Cecil Street and Baxter Street as depicted on the rezoning plan.
  13. Eliminate the requirement for roof line variation every 30 feet for the structured parking facility to be located in Development Area B, and a roof line variation every 30 feet for the single family attached dwelling units to be located in Development Area C.
  14. Allow tree grates, seat walls, planters and other pedestrian amenities and features to be provided in the setback along the site's frontage on South Kings Drive.
  15. Eliminate the ten-foot buffer required along the relevant portions of the site's southern boundary.
  16. Eliminate the side and rear yard requirements along the site's southern boundary line.
- **Public Plans and Policies**
  - The *Midtown Morehead Cherry Area Plan* (2012) recommends a mixture of residential, office and retail for the majority of the site along South Kings Drive, Baxter Street, Cecil Street, Luther Street and Cherry Street north of the intersection with Main Street. The plan

recommends residential uses at eight units per acre for the portion of the site fronting Cherry Street south of Main Street

- The area plan recommends that as areas redevelop on the east side of South Kings Drive, a pedestrian-friendly environment with activation of buildings at street level should be provided.
- The site plan diverges from the recommendations of the *Midtown Morehead Cherry Area Plan* and pedestrian overlay standards in regards to building heights, setbacks, streetscapes, and residential density along Cherry Street south of Main Street. Additionally, the parking structure encroaches into a portion of the area recommended for residential use.
- The petition is inconsistent with the adopted plan design recommendations for the following items:
  - The proposed building height for Area A is, at one point, a 50-foot increase above the height recommended by the plan.
  - The proposed building height for Area B is a 24-foot increase above the allowed height along Cherry Street and a ten-foot increase at the single family zoning boundary to the south.
  - The plan recommends a 24-foot setback along South Kings Drive. The petition is proposing a setback of 24 feet at the ground floor, reduced to 16 feet for upper floors for Development Area A and a 22-foot setback for Development Area B.
  - The plan recommends recessed on-street parking, an eight-foot curbed planter, and an eight-foot sidewalk along South Kings Drive. The rezoning proposes no on-street parking, an eight-foot planting strip, and a 20-foot sidewalk for Development Area A and an eight-foot planting strip and a 14-foot sidewalk for Development Area B. The sidewalk and planting strip along Kings Drive vary for Development Area B.
  - The plan recommends an eight-foot planting strip and a six-foot sidewalk with a two-foot utility zone along Baxter Street. The petition proposed an eight-foot planting strip and an eight-foot sidewalk.
  - The plan recommends setbacks along Cherry Street outside of the pedestrian overlay to comply with the Zoning Ordinance. The Zoning Ordinance requires a setback of 32 feet, which is greater than setbacks of the nearby homes on the street. The petition proposes a voluntary expansion of the pedestrian overlay and provides a setback of 16 feet along Cherry Street as recommend in the plan for cross streets.

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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 comments received.
- **Charlotte-Mecklenburg Schools:** No comments received.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.
- **Charlotte Water:** 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*.
    - Facilitates the use of alternative modes of transportation by preserving an existing CATS bus stop, and providing an improved pedestrian experience through the site and along South Kings Drive with the provision of wide sidewalks.
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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
- Transportation Review
- Charlotte-Mecklenburg Storm Water Services Review
- Charlotte Water 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:** John Kinley (704) 336-8311