

**Note: The petitioner is requesting a one-month deferral of the decision due to a valid protest petition and the lack of a full Council being present at the meeting on June 15, 2015.**

<b>REQUEST</b>	Current Zoning: MUDD-O (mixed use development, optional) Proposed Zoning: TOD-M(O) (transit oriented development – mixed-use, optional)
<b>LOCATION</b>	Approximately 3.63 acres located on the east side of North Davidson Street and bounded by East 26 <sup>th</sup> Street, East 27 <sup>th</sup> Street, and Yadkin Avenue. (Council District 1 - Kinsey)
<b>SUMMARY OF PETITION</b>	The petition proposes residential and non-residential uses as permitted by-right and under prescribed conditions in the TOD-M (transit oriented development – mixed-use) district.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	NODA at 27 <sup>th</sup> St LLC Southern Apartment Group Jeff Brown and Keith MacVean, Moore & Van Allen
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 9
<b>STATEMENT OF CONSISTENCY</b>	<p>The proposed setbacks and height are found to be inconsistent with the <i>Blue Line Extension 25<sup>th</sup> Street Station Area Plan</i>; however, the proposed land use is found to be consistent with the <i>Blue Line Extension 25<sup>th</sup> Street Station 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 transit supportive land uses for the site.</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:</p> <ul style="list-style-type: none"> <li>• Will allow a transit oriented development; and</li> <li>• Will incorporate non-residential ground floor uses along the North Davidson frontage; and</li> <li>• Will limit the portion of the building closest to single family residential to four stories and allow it to increase to five stories away from the residential use;</li> </ul> <p>By a 6-0 vote of the Zoning Committee (motion by Commissioner Labovitz seconded by Commissioner Nelson).</p>

<b>ZONING COMMITTEE ACTION</b>	<p>The Zoning Committee voted 6-0 to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <ol style="list-style-type: none"> <li>1. Amended the last sentence referencing Development Area B on Sheet Z-2.0 under Maximum Gross Square Feet of Development, to state residential and non-residential uses as permitted by right and under prescribed conditions in the TOD-M zoning district.</li> <li>2. Removed the note on Sheet Z-3.0 under General Provisions Development Note 1.c. (Graphics and Alterations) beginning with "Since the project has not undergone the design development..." and the remainder of the note, as the necessary information pertaining to Section 6.207 is provided in the first paragraph.</li> <li>3. Specified the maximum height of the parapet will not exceed five feet in height from the top of the roof structure.</li> <li>4. Provided a diagram that illustrates proposed building heights as related to the definition of height per the ordinance.</li> <li>5. Reduced the proposed building height and massing at the corner of Yadkin Avenue and East 26<sup>th</sup> Street to four stories. Added language</li> </ol>
--------------------------------	---

under Architectural Standards stating that the screening on the upper levels of the deck will be accomplished with either decorative grills or architectural pre-cast.

6. Added language to the site plan providing for a “fenestration area” for the building constructed along North Davidson Street within Development Area. The standards for application of a “fenestration area” will also apply to Development Area B upon redevelopment.
7. Provided a note stating that proposed non-residential uses located on ground floor of the building constructed along North Davidson Street, within Development Area A, will orient and connect a primary entrance to the sidewalk along North Davidson Street. The entrances to the sidewalk along North Davidson Street will be open and operable during the business hours of the associated use. This standard will also apply to Development Area B when it undergoes redevelopment.
8. Addressed Transportation comments:
  - a. Modified optional provision pertaining to Development Area A to allow the setback along North Davidson to be 16 feet as measured from the future back of curb as generally depicted on the Rezoning Plan.
  - b. Added an optional provision pertaining to Development Area B to allow a 16-foot setback as measured from the existing back of curb to be provided along North Davidson Street. When Development Area B is redeveloped a 16-foot setback as measured from the future back of curb will be provided.
  - c. Modified Streetscape, Landscaping, Open Space and Screening Note 5a. to state that along North Davidson Street a 16-foot setback as measured from the future back of curb for Development Area A will be provided and a 16-foot setback as measured from the existing back of curb will be provided for Development Area B, as allowed by the Optional Provision above.
  - d. Modified Streetscape, Landscaping, Open Space and Screening Note 5d. to state that the petitioner may elect to modify the existing curb line along Development Area A’s North Davidson Street frontage to provide parallel on-street parking as recommended by the *Blue Line Extension Transit Station Area Plan*, if approved by the City during the Urban Approval/Building Permit process for the Development Area A.
  - e. Identified on the site plan the future back of curb as 21.5 feet from road centerline and 16-foot setback from future back of curb.
  - f. Added language to state proposed on-street parking along East 26<sup>th</sup> Street will follow ADA requirements.
9. Added a note stating that the leasing office associated with the residential dwelling units may not occupy more than 50% of the ground floor area of the North Davidson Street building frontage.
10. Added a note stating that the petitioner will donate \$8,000 to the Villa Heights Neighborhood Association for the installation of Villa Heights neighborhood identification signage. The funds will be contributed to the Villa Heights Neighborhood Association after a building permit is issued for the first building within Development Area A and prior to the issuance of the first certificate of occupancy for the first building constructed within Development Area A.
11. Modified the parking information under Site Development Data to state that parking will be as required by the Ordinance for Development Area A for the allowed non-residential uses and a minimum for one (1) parking space per bedroom for the residential dwelling units constructed.

**VOTE**

Motion/Second:

Labovitz/Nelson

Yeas:

Dodson, Eschert, Labovitz, Nelson, Sullivan, and Walker

Nays:

None

Absent: Ryan  
 Recused: None

## ZONING COMMITTEE DISCUSSION

Staff presented this item to the Committee, noting requested optional provisions, and focusing on alterations made to the site plan to reduce the building height at the corner of Yadkin Avenue and East 26<sup>th</sup> Street. Staff noted the diagram provided by the petitioner to further illustrate variations in proposed building height from 47 feet to 62 feet, based upon average grade.

At the request of Committee members, staff provided clarification regarding the diagram and variations in height due to the topography and as interpreted by the ordinance definitions of average grade and height.

A Zoning Committee member asked for clarification regarding the request for reduced setbacks and staff stated that reasons included allowing existing parking in Development Area B to remain, and accommodating recessed parking along East 27<sup>th</sup> Street. Staff also indicated that the intent was to provide the cross section for North Davidson Street as provided in the adopted plan upon redevelopment. 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

- **Background**

- Petition 2008-070 rezoned the subject site from I-2 (general industrial) to MUDD-O (mixed use development, optional) to allow up to 200 residential units, 31,000 square feet of retail (with the ability to convert all or a portion to office), and 9,000 square feet for a restaurant (with the ability to convert all or a portion to office or retail). The maximum building height was limited to 75 feet.

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Site consists of two "Development Areas," identified as Areas A and B.
- General Commitments:
  - Access to site is provided from North Davidson Street, East 27<sup>th</sup> Street and Yadkin Avenue.
  - Proposed recessed on-street parking on East 26<sup>th</sup> Street (9 spaces) and on Yadkin Avenue (11 spaces).
  - Building materials will be a combination of brick, stone, precast stone, synthetic stone, cementitious siding, stucco, EIFS, decorative metal panels, decorative block, and/or wood. Vinyl as a building material may only be used on windows, soffits, and handrails/railings.
  - Open space areas on the site will be improved with landscaping, lighting, seating and hardscape elements.
  - All new detached and attached lighting will be full cut-off type lighting fixtures excluding low landscape, decorative, specialty, and accent lighting that may be installed along the driveways, sidewalks, open space/amenity areas, and parking areas. Detached lighting limited to 15 feet in height.
  - Petitioner will donate \$8,000 to the Villa Heights Neighborhood Association for the installation of Villa Heights neighborhood identification signage. The funds will be contributed to the Villa Heights Neighborhood Association after a building permit is issued for the first building within Development Area A.
- Development Area A:
  - Allows up to 250 residential dwelling units and up to 7,500 square feet of gross floor area of non-residential uses as permitted by right and under prescribed conditions in the TOD-M (transit oriented development – mixed-use) zoning district.
  - Ground floor portion of the building constructed along North Davidson Street will be developed with non-residential uses (e.g. office, retail, institutional, civic, eating/

drinking/entertainment establishments, etc.) as allowed by the TOD-M (transit oriented development - mixed-use) district.

- Proposed non-residential uses located on the ground floor of the building constructed along North Davidson Street, within Development Area A, will orient a primary entrance to the sidewalk along North Davidson Street. The entrances to the sidewalk along North Davidson Street will be open and operable during the business hours of the associated use. This standard will also apply to Development Area B when Development Area B undergoes redevelopment.
- Building constructed along North Davidson Street, within Development Area A, will provide a "fenestration area" of at least 50% of the area of the building edge along North Davidson Street. The "fenestration area" is calculated as a percentage of the wall area zone from three (3) feet above finished floor to eight (8) feet above finished floor area for the length of the building. This "fenestration area" standard will also apply to Development Area B when Development Area B undergoes redevelopment.
- Permits a maximum of three (3) principal buildings to be constructed.
- The first floor level of the parking deck along Yadkin Avenue will be treated with a combination of decorative grill work, active ground floor uses and art work. Upper floors of the parking deck will have openings to allow air and light into the deck and may not be constructed as a solid wall.
- Art work will be part of the street wall treatment of the proposed parking structure located along Yadkin Avenue. The proposed art work will be installed either: (i) as part of a partnership between the Petitioner and the Arts and Science Council; or (ii) by the Petitioner.
- An eight-foot amenity zone with trees and an eight-foot wide sidewalk will be provided along the site's frontage on North Davidson Street.
- Screening on the upper levels of proposed parking deck will be accomplished with either decorative grills or architectural pre-cast.
- Recessed on-street parking will be constructed on East 26<sup>th</sup> Street, and on-street parking will be provided on Yadkin Avenue.
- Petitioner will restripe the existing bike lane located on the site's frontage on North Davidson Street to provide parallel on-street parking as recommend by the *Blue Line Extension Transit Station Area Plan*, if approved by the City during the Urban Approval/Building Permit process for Development Area A.
- Residential buildings will have pedestrian entrances from the building to each of the adjoining public streets.
- The leasing office associated with the residential dwelling units may not occupy more than 50% of the ground floor area of the North Davidson Street building frontage.
- Optional Provisions for Development Area A:
  - Allow 14-foot setbacks along East 27<sup>th</sup> Street and Yadkin Avenue from the existing back of curb (minimum 16-foot setback required).
  - Allow a 14-foot setback (minimum 16-foot setback required) from:
    - (i) The new back of curb along East 26<sup>th</sup> Street, where the curb is relocated to allow recessed on-street parking; and
    - (ii) The existing back of curb where recessed on-street parking is not provided.
  - Allow the sidewalk width along East 26<sup>th</sup> Street, East 27<sup>th</sup> Street, and Yadkin Avenue to be six (6) feet (minimum 8-foot sidewalk required).
  - Allow the setback along North Davidson Street to be 16 feet as measured from the existing back of curb (20 feet required).
  - Allow the setback along North Davidson Street to be 16 feet as measured from the future back of curb.
  - Allow the buildings to have a maximum height of four (4) and five (5) stories and 47, 55 and 60 feet. A maximum building height of four (4) stories and 47 feet will be measured from grade at the base of the building at the intersection of Yadkin Avenue and East 26<sup>th</sup> Street. At the intersection of East 27<sup>th</sup> Street and Yadkin the maximum building height will be five (5) stories and 55 feet and will be measured from grade at the base of the building. A maximum building height of five (5) stories and 60 feet will be established and measured from grade at the base of the building at the intersection of North Davidson Street and East 26<sup>th</sup> Street. The maximum building height, between the locations indicated and described above for maximum building height, shall not exceed: (i) 60 feet along East 26<sup>th</sup> Street; and (ii) 62 feet along Yadkin Avenue as measured from average grade.
  - Allow the parapet wall(s) to not be counted toward the allowed building height.
  - Allow the parking structure located along Yadkin Avenue to be constructed with 50% of its linear street frontage containing street level active accessory uses associated with the allowed residential uses, such as but not limited to a dog wash, bicycle repair station etc.

- 
- and not with retail, office or residential uses.
  - Allow the building along East 26<sup>th</sup> Street and Yadkin Avenue to not provide façade variations that visually separate each individual unit in the proposed building when located across from single family zoning.
  - Allow the portions of the building across from single family zoning to have more than four units share a common access to the abutting streets.
  - Development Area B:
    - Allows all residential and non-residential uses as permitted by right and under prescribed conditions in the TOD-M (transit oriented development – mixed-use) zoning district.
    - Allows existing uses to remain until redevelopment occurs.
    - Permits a maximum of three (3) principal buildings to be constructed.
    - Proposed maximum building height of 60 feet.
    - Proposed 29 angled parking spaces in Development Area B.
    - Provides an eight-foot planting street and eight-foot sidewalk along the site’s frontage on North Davidson Street.
    - Provides an eight-foot planting strip and six-foot sidewalk along the site’s frontage on East 27<sup>th</sup> Street.
    - Proposed non-residential uses located on ground floor of the building constructed along North Davidson Street, within Development Area B, will orient a primary entrance to the sidewalk along North Davidson Street. The entrances to the sidewalk along North Davidson Street will be open and operable during the business hours of the associated use. This is applicable when Development Area B undergoes redevelopment that is subject to the TOD-M (transit oriented development – mixed-use) district.
    - Any building constructed along North Davidson Street will provide a “fenestration area” of at least 50% of the area of the building edge along North Davidson Street. The “fenestration area” is calculated as a percentage of the wall area zone from three (3) feet above finished floor to eight (8) feet above finished floor for the length of the building. This is applicable when Development Area B undergoes redevelopment that is subject to the TOD-M (transit oriented development – mixed-use) district.
    - Parking will comply with the minimum parking requirements of the MUDD (mixed use development) district.
  - Optional Provisions for Development Area B:
    - Allow the existing parking located in Development Area B within the established setback on North Davidson Street and East 27<sup>th</sup> Street to remain until Development Area B is redeveloped.
    - Allow parking and vehicular maneuvering between the existing building and North Davidson Street and East 27<sup>th</sup> Street. Once the existing building is demolished and redevelopment occurs, Development Area B will comply with the TOD-M (transit oriented development – mixed-use) regulations and parking and vehicular maneuvering will not be allowed between the buildings and existing public streets.
    - Allow uses (existing or new) located within the existing building to meet the minimum parking requirements of the MUDD (mixed use development) district.
    - Allow the buildings constructed to have a maximum height of 60 feet.
    - Not require screening of the existing parking located within Development Area B until redevelopment occurs.
    - Not require the installation of sidewalk connections from the existing building to the abutting streets until redevelopment occurs.
    - Allow a 16-foot setback as measured from the existing back of curb to be provided along North Davidson Street. When Development Area B is redeveloped, a 16-foot setback as measured from the future back of curb will be provided.
  - **Public Plans and Policies**
    - The *Blue Line Extension 25th Street Transit Station Area Plan* (2013) recommends transit supportive land uses, with a height limit of 50 feet. The plan provides language to ensure that scale, massing, and height of new development/redevelopment is sensitive to existing neighborhood development.
    - The petition is inconsistent with the *Blue Line Extension 25<sup>th</sup> Street Transit Station Area Plan* with respect to proposed maximum height and setbacks, but consistent with respect to proposed land uses.
- 

**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 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.
- 

#### **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.
- 

#### **OUTSTANDING ISSUES**

- No issues.
- 

#### **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-Mecklenburg Schools 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:** Claire Lyte-Graham (704) 336-3782