

REQUEST	Current Zoning: B-1 (PED) (neighborhood business, pedestrian overlay) Proposed Zoning: MUDD-O (PED) (mixed use development, optional, pedestrian overlay)
LOCATION	Approximately 0.909 acres located on the south side of West Trade Street between Grandin Road and Interstate 77. (Council District 2 - Austin)
SUMMARY OF PETITION	The petition proposes to redevelop the site with a new building with an accessory drive-through window to accommodate the existing eating, drinking, entertainment establishment (Type 1) or another non-residential use.
PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE	South Central Oil Co., Inc. Bojangles' Restaurants, Inc. John Carmichael, Robinson Bradshaw & Hinson, P.A.
COMMUNITY MEETING	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 3
STATEMENT OF CONSISTENCY	<p>The petition is found to be consistent with the <i>West End Land Use and Pedscape Plan</i> with respect to land use but inconsistent with the plan with respect to the proposed site layout for the new building and accessory drive-through window, based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> • The adopted Plan recommends multi-family/office/retail for the subject site; and • The adopted Plan recommends that the buildings be brought to the public sidewalk and that parking and vehicular maneuvering be located to the side or rear of buildings. <p>However, 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:</p> <ul style="list-style-type: none"> • The proposed land use is consistent with the adopted plan; and • The request involves the redevelopment of a site to accommodate an existing use on a parcel that is located adjacent to a major interchange for Interstate 77; <p>By a 7-0 vote of the Zoning Committee (motion by Commissioner Labovitz seconded by Commissioner Sullivan).</p>

ZONING COMMITTEE ACTION	<p>The Zoning Committee voted 7-0 to recommend APPROVAL of this petition with the following modifications:</p> <ol style="list-style-type: none"> 1. Specified on site plan that eating/drinking/entertainment establishment (EDEE) is a Type 1 establishment. 2. Amended zoning of property to the southeast to state UR-2(CD) (via petition 2014-089). 3. Noted zoning of other abutting and adjacent properties. 4. Amended Development Data to state proposed zoning is MUDD-O (PED). 5. Clarified that in the event the proposed building discontinues any redevelopment will meet the requirements contained in the PED. 6. Labeled setback along West Trade Street to indicate 24 feet from back of curb. 7. Removed portion of General Provisions Development Note E that allows redevelopment of the site devoted to any MUDD (mixed use development) use, as long as maximum height does not exceed 120 feet.
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8. Removed in General Provisions Development Note E in its entirety, including reference to "alternate building."
9. Requested Optional Provision that the proposed dumpster enclosure with gates be allowed in the location as shown on the site plan.
10. Petitioner added Optional Provision Note F that states an outdoor drive-through menu board with a speaker box may be installed and utilized on the site in connection with an eating/drinking/entertainment establishment with accessory drive-through windows. The maximum size of the outdoor drive-through menu board shall be 89 inches in height as measured from the base of the menu board and 78 inches in width.
11. Modified General Provisions Note D to state any modifications to the site plan shall comply with Section 6.207.
12. Addressed CATS and Engineering comments:
 - a. Responded to CATS comment by adding a note that states prior to issuance of a certificate of occupancy for any new building constructed on the site, petitioner will dedicate and convey to the City of Charlotte (subject to a reservation for any necessary utility easements) those portions of the site immediately adjacent to West Trade Street that are more particularly depicted on the rezoning plan for right-of-way, to the extent that such right-of-way does not already exist.
 - b. Responded to Engineering comments by noting that tree save will be met by the payment in lieu option versus providing tree save on site.
13. Modified Lighting Note B to state the maximum height of any newly installed freestanding lighting fixture installed on the site as measured from its base shall be 30 feet.
14. Modified Lighting Note C to state that any lighting fixtures attached to the buildings to be constructed on the site shall be decorative, capped and downwardly directed.

VOTE

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

ZONING COMMITTEE DISCUSSION

Staff presented this item to the Committee, noting that all outstanding issues had been addressed and that a note had been added to the site plan stating that any redevelopment of the site accommodating a use other than the existing restaurant will be required to comply with the standards of the PED (pedestrian overlay district). There was no discussion of this item.

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

FINAL STAFF ANALYSIS
 (Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW

- **Background**
 - Rezoning petition 2006-034 established the Pedestrian Overlay District (PED) on various properties totaling approximately 310 acres, including the subject site. The purpose of the overlay is to re-establish an urban fabric by promoting a mixture of uses in a pedestrian setting of moderate density as recommended in the *West End Land Use and Pedscape Plan*.
- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

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- Redevelopment of the site containing an existing eating/drinking/entertainment establishment (Type 1) and construction of a new building with an accessory drive-through window and associated parking area.
 - Maximum height of a building devoted to an eating/drinking/entertainment establishment is 35 feet.
 - In the event the proposed building discontinues, any redevelopment will meet the requirements contained in the PED (pedestrian overlay district).
 - Allows a one-way drive aisle with a proposed entrance and a proposed exit onto West Trade Street (as site currently operates).
 - Proposes a ten-foot landscaped buffer along the northwest property line.
 - Prior to issuance of a certificate of occupancy for any new building constructed on the site, the petitioner will dedicate and convey to the City of Charlotte (subject to a reservation for any necessary utility easements) those portions of the site immediately adjacent to West Trade Street that are more particularly depicted on the rezoning plan for right-of-way, to the extent that such right-of-way does not already exist.
 - Allows the maximum height of any freestanding lighting to be 30 feet.
 - Provides that the tree save is to be met via "payment in lieu" option.
 - Building elevations (front, left side, right side and rear).
 - Optional provisions being requested are:
 - Allow an accessory drive-through window associated with an eating/drinking/entertainment establishment.
 - Allow dumpster enclosure to be located on site as depicted on the rezoning plan.
 - In lieu of constructing and installing an eight-foot planting strip and a six-foot sidewalk along the site's frontages on West Trade Street and South Summit Avenue, the petitioner shall, prior to the issuance of a certificate of occupancy for any new building constructed on the site, construct and install a new seven-foot sidewalk at the back of curb along the site's frontage on West Trade Street, and a new six-foot sidewalk and accessible ramps along the site's frontage on South Summit Avenue provided that the petitioner can obtain an encroachment agreement from CDOT and all required permits and approvals. If the petitioner cannot obtain such agreement, permits and approvals, the petitioner shall not be required to construct and install these sidewalks and accessible ramps and the existing sidewalks and accessible ramps may remain in place. Note that *The West End Land Use and Pedscape Plan* calls for an eight-foot planting strip with trees, an eight-foot sidewalk, and an eight-foot amenity area for landscaping, paved dining, extended sidewalk, or merchandising on this portion of West Trade Street. Also the plan allows an option for recessed on-street parking. South Summit Avenue requires a six-foot sidewalk and eight-foot planting strip.
 - Allow surface parking and maneuvering space to be located between the permitted use on the site and the required setback as depicted on the rezoning plan.
 - Allow the existing planting area located behind the sidewalk along the site's frontage on West Trade Street to remain in place.
 - Allow the maximum size of the outdoor drive through menu board to be 89 inches in height as measured from the base of the menu board and 78 inches in width.
 - **Public Plans and Policies**
 - The *West End Land Use and Pedscape Plan* (2005) recommends multi-family, office and/or retail for the subject site.
 - The proposed land use is consistent with the *West End Land Use and Pedscape Plan* (2005). The proposed site design layout of the new building and the accessory drive-through window are inconsistent with the plan which recommends that buildings be brought to the public sidewalk and that parking and vehicular maneuvering be located to the side or rear of buildings.
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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 issues.

- **Charlotte-Mecklenburg Storm Water Services:** No issues.
 - **Charlotte Water:** No comments received.
 - **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 redeveloping on an infill parcel.
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OUTSTANDING ISSUES

- No issues.
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Attachments Online at 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
- 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