

<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 an automobile service station, associated convenience store, and another proposed commercial use.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	Nasir Ahmad Pavilion Development Company N/A
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 5
<b>STATEMENT OF CONSISTENCY</b>	The Zoning Committee found this petition to be inconsistent with the <i>Southwest District Plan</i> , based on information from the staff analysis and the public hearing, and because: <ul style="list-style-type: none"> <li>• The plan, as amended by petition 1997-015, prohibits automobile oriented uses such as convenience stores with fuel sales.</li> </ul> <p>However, this petition was 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"> <li>• The petitioner has addressed concerns related to the lease and conversion of the site from a service station to general retail in the event the lease is terminated; and</li> <li>• The proposal prohibits a 24-hour diner; and</li> <li>• The propose use will be an amenity to the area;</li> </ul> <p>By a 6-1 vote of the Zoning Committee (motion by Commissioner Majeed seconded by Commissioner Sullivan).</p>

<b>ZONING COMMITTEE ACTION</b>	The Zoning Committee voted 7-0 to recommend <b>APPROVAL</b> of this petition with the following modifications: <ol style="list-style-type: none"> <li>1. The Architectural Standards language (transparency note) has been revised to address the façade facing Nations Ford Road in addition to Tyvola Road and the access drive by adding the following language: "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 and Nations Ford Road on at least 50% of the length of the first floor frontage facing the street and right-in access driveway. Windows must not be blocked by equipment, window adhesives, or other means."</li> <li>2. Revised Architectural Standards language to state blank walls shall not exceed 20 feet and shall be mitigated by providing architectural detail such as a substantial change in material and/or articulation greater than 12 inches in depth.</li> <li>3. Petitioner added a note to the site plan identifying proposed trees along right-of-way to be protected.</li> <li>4. The petitioner clarified that the subject parcels will be designed with materials compatible with adjacent the residential neighborhood by providing the following language under heading Architectural Standards: "The subject parcels shall be designed with materials compatible with adjacent residential neighborhood. Adjacent residential neighborhood is constructed with plank siding</li> </ol>
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and non-architectural roofing. Pursuant to restriction on our property and previous staff comments, our materials are high quality architectural precast stone and fiber cement board. Building materials used will be high quality architectural precast stone, fiber cement board and sloped standing seam metal roof.”

5. The petitioner incorporated CDOT’s requested design refinements to the pedestrian refuge medians.
6. The site data was revised to remove “(CD)” from Existing Zoning and Proposed Zoning lines as the Commercial Center zoning district is conditional.

The following items have been added or modified since the public hearing:

1. The petitioner has added a note under heading Permitted Uses stating that the petitioner agrees that in the event the proposed convenience store is vacated, the motor fuel facility will be restored to a commercial standard.
2. A note has been added under heading Permitted Uses that states that Parcel 4B will be restricted from being a 24-hour diner.

**VOTE**

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

**ZONING COMMITTEE DISCUSSION**

Planning staff provided a summary of the petition and described the changes since the public hearing. Staff pointed out that there were several outstanding issues all related to the inconsistent land use. The Zoning Committee voted to suspend the rules to ask the petitioner’s agent about commitments that had been made regarding the lease. George Shield spoke on behalf of the petitioner and explained that they had committed on the site plan to restoring the motor fuel facility to a commercial standard in the event the convenience store is vacated. There was some discussion related to the details of the lease. One Commissioner pointed out that the Zoning Committee had recommended approval for this proposal when it was before them under the previous petition 2014-092. 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. The original site plan prohibited automobile service stations including fuel sales, which are not compatible with the residential and religious institution uses on the other three corners of the intersection of Nations Ford Road and Tyvola Road. Additionally, no significant land use changes have occurred that warrant the introduction of automobile oriented uses on this site.

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

**PLANNING STAFF REVIEW**

- **Background**
  - A rezoning petition was previously filed on the subject site (rezoning petition 2014-092) to allow a 3,010-square foot automobile service station and a 2,500-square foot commercial building.
  - A protest petition that was filed on this request was deemed to be insufficient. The public hearing on this petition was held on October 20, 2014.
  - The Zoning Committee deferred this petition several times and ultimately voted 7-0 on January 15, 2015 to recommend approval of this petition with modifications, and the petitioner’s commitment to address outstanding issues prior to City Council decision.
  - The petition was withdrawn in March 2015 prior to the City Council decision.
- **Proposed Request Details**

The site plan amendment contains the following changes:

- Divides Parcel 4 (the subject property) into two parcels; Parcel 4A is 1.27 acres and Parcel 4B is 0.52 acres.
- Allows all uses in the CC (commercial center) district except building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows on Parcel 4A. Permits a maximum 3,010-square foot building excluding permitted accessory structures.
- Allows all uses in the CC (commercial center) district except automobile service stations, building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows on Parcel 4B. Permits a maximum 2,500-square foot building.
- Changes the right-in/right-out access on the north side of the site on Nations Ford Road to full movement access with a southbound left-turn lane into the center.
- Adds new seven-foot sidewalks along north and south sides of the building connecting to a new sidewalk along Nations Ford Road.
- Provides new eight-foot sidewalk and eight-foot planting strip along Nations Ford Road and Tyvola Road with a landscape buffer.
- Provides 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 along an existing private access easement named Tyvola Glen Circle.
- Adds that the subject parcels will be designed with materials compatible with the adjacent residential neighborhood, and notes that 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 Road on at least 50% of the length of the first floor frontage facing the street and right-in driveway. Windows must not be blocked by equipment, window adhesives, or other means.
- Provides that roofs should be pitched and should be between 5:12 and 12:12. Projected dormers may be implemented. Fuel canopy islands will also be designed to have a pitched roof.
- Requires blank walls not to exceed 20 feet and to be mitigated by providing architectural detail.
- 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.
- Requires improvements to existing pedestrian refuge island within median at the intersection of Nations Ford Road and Tyvola Road to be upgraded to improve existing ramps, sidewalks, and curb.
- Provides a note stating the petitioner agrees that in the event the proposed convenience store is vacated, the motor fuel facility will be restored to a commercial standard.
- Prohibits a 24-hour diner to be located on Parcel 4B.

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

- Provides a landscaped buffer along Nations Ford Road.
  - Limits height of the building on Parcel 4B to a maximum of two stories.
  - Limits ground mounted signage for individual parcels to a maximum of four feet high and 50 square feet.
  - Prohibits building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows on both parcels.
- **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, per Petition 1997-015, which amended the plan.
  - **TRANSPORTATION CONSIDERATIONS**
    - No issues.

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

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Charlotte-Mecklenburg Schools:** No issues.
- **Engineering and Property Management:** No issues.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.

- **Charlotte Water:** No issues.
  - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
  - **Mecklenburg County Parks and Recreation Department:** No issues.
  - **Charlotte Fire Department:** No comments received.
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**OUTSTANDING ISSUES**

1. The proposed land use on Parcel 4A is inconsistent with the *Southwest District Plan*, as amended by petition 1997-015.
  2. Under Purpose statement, remove reference to automobile service station and associated convenience store.
  3. Under Permitted Uses heading, add automobile service station as a prohibited use.
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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
- Department Comments
  - Charlotte Area Transit System Review
  - Charlotte Department of Neighborhood & Business Services Review
  - Charlotte-Mecklenburg Schools Review
  - Engineering and Property Management Review
  - Charlotte-Mecklenburg Storm Water Services Review
  - Charlotte Water Review
  - Mecklenburg County Land Use and Environmental Services Agency Review
  - Mecklenburg County Parks and Recreation Review
  - Transportation Review

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