

**Note: A sufficient protest petition has been filed.**

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| <b>REQUEST</b>  | Current Zoning: CC (commercial center)<br>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.<br>(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<br/>PETITIONER<br/>AGENT/REPRESENTATIVE</b> | Nasir Ahmad<br>Pavilion Development Company<br>N/A  |
| <b>COMMUNITY MEETING</b>                                      | Meeting is required and has been held. Report available online.<br>Number of people attending the Community Meeting: 5                                |

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| <b>STAFF<br/>RECOMMENDATION</b> | <p>Staff does not recommend approval of this petition.</p> <p><u>Plan Consistency</u><br/>The petition is inconsistent with the <i>Southwest District Plan</i>, as amended by Petition 1997-015, as automobile oriented uses such as convenience stores with fuel sales were not allowed.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• This is part of a larger 22-acre rezoning (petition 1997-015) which was entitled for hotel, office, and retail uses with a specific prohibition on drive-through restaurants and automobile service stations including fuel sales.</li> <li>• The subject property is located at the intersection of Nations Ford Road and Tyvola Road and the remaining three corners of the intersection are developed with residential or religious institutions, which are compatible with the surrounding residential neighborhoods.</li> <li>• The existing zoning from 1997 provided for uses that would be compatible with surrounding neighborhoods, and keeping automobile-related uses to the east side of Interstate 77 which is more commercial in nature.</li> <li>• Since the 1997 rezoning, no significant land use changes have occurred that warrant the introduction of automobile oriented uses on this site. Therefore, staff supports maintaining the current site plan and uses.</li> </ul> |
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**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 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 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.

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 4 feet high and 50 square feet.
  - Prohibits building material sales, dwellings, and eating/drinking/entertainment establishments with drive-in service windows on both parcels.
- **Existing Zoning and Land Use**
    - The subject is part of a larger 22.25 acre site at the northeast corner of Nations Ford Road and Tyvola Road. The larger site was rezoned by petition 1997-015 to CC (commercial center) to allow for office, retail, institutional, eating/drinking/entertainment establishments and hotel uses. The rezoning included eight parcels.
    - The subject parcel remains vacant. The other parcels on the larger site have been developed with an office building, a bank branch, and several hotels. A site plan amendment, petition 2008-018, provided for an additional hotel development on one parcel.
    - The subject site is part of an overall commercial center. The approved site plan for this site allows 6,000 square feet of office or 10,500 square feet of retail or 24,000 square feet of eating/drinking/entertainment establishments, and excludes automobile service stations, building material sales and dwellings.
    - Properties across Tyvola Road to the south, and across Nations Ford Road to the west are zoned R-4 (single family residential) with single family uses (Greenbriar Woods neighborhood) and a church. Diagonally across Tyvola Road and Nations Ford Road is multi-family development zoned R-17M(CD) (multi-family conditional).
    - Across I-77 to the east is an area of intensive commercial development, including gasoline stations, hotels, fast food and other restaurant uses, and a variety of retail uses.
    - See "Rezoning Map" for existing zoning in the area.
  - **Rezoning History in Area**
    - Rezoning petition 2016-003 is a CC SPA (commercial center, site plan amendment) consisting of approximately 7.1 acres located on the east side of Nations Ford Road, north of Tyvola Road, and west of I-77, to allow office or a hotel on Parcels 1 and 2. This request is tentatively scheduled for the January 19, 2016 City Council rezoning meeting.
  - **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

- The proposed use will increase the volume of traffic in and out of the site, but since it is a convenience use, most of the trips will be pass-by traffic, meaning that the use will not add a significant amount of new traffic on the adjacent streets. The primary transportation goal for this site is to improve pedestrian access to and from the site. In order to achieve these goals, the petitioner has agreed to complete improvements to the existing sidewalks on the perimeter of the site and improve the pedestrian crossings of Nations Ford Road and of Tyvola Road through various median improvements on Nations Ford and at the Nations Ford / Tyvola intersection. This site is served by bicycle lanes along Nations Ford Road, however there are sidewalk gaps on the west side of Nations Ford Road that limit the pedestrian accessibility to the site.
- See Outstanding Issues, note 8.
- **Vehicle Trip Generation:**  
Current Zoning: 1,600 trips per day  
Proposed Zoning: 3,400 trips per day

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

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Charlotte Fire Department:** No comments received.
- **Charlotte-Mecklenburg Schools:** Non-residential petitions do not impact the number of students attending local schools.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.
- **Charlotte Water:** No issues.
- **Engineering and Property Management:** See outstanding issue, note 6.
- **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
- **Mecklenburg County Parks and Recreation Department:** No issues.

### OUTSTANDING ISSUES

#### Land Use

1. The proposed land use on Parcel 4A is inconsistent with the *Southwest District Plan*, as amended by petition 1997-015.

#### Site and Building Design

2. Architectural Standards language (transparency note) should be revised to address façade facing Nations Ford Road in addition to Tyvola Road and the access drive as currently noted.
3. Architectural Standards language should be revised to state blank walls shall not exceed 20 feet and should be mitigated by providing architectural detail such as: a substantial change in material and/or articulation greater than 12 inches in depth.
4. Revise Architectural Standards language to define compatible materials.
5. Show trees to be saved on site plan.
6. Show all right-of-way trees as being protected.
7. Clarify how the subject parcels will be designed with materials compatible with adjacent residential neighborhood.

#### Transportation

8. Incorporate CDOT's requested design refinements to the pedestrian refuge medians.

### REQUESTED TECHNICAL REVISIONS

1. Under Site Data remove "(CD)" from Existing Zoning and Proposed Zoning lines as the Commercial Center zoning district is conditional.
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.

**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Site Plan
- Locator Map
- Community Meeting Report
- Department Comments
  - 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

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