
REQUEST	Current Zoning: B-1 (neighborhood business), I-2 (general industrial) and MUDD (mixed use development) Proposed Zoning: TOD-MO (transit oriented development – mixed-use, optional)
LOCATION	Approximately 1.123 acres located south of the Norfolk Southern Railroad and north of North Davidson Street off North Davidson Street between East 33rd Street and East 36th Street. (Council District 1 - Kinsey)
SUMMARY OF PETITION	The petition proposes to redevelop a site located north of the NoDa “Arts District” to allow a mix of residential and nonresidential transit supportive uses.
PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE	NODA 2526 LLC ECP NoDa, LLC Jeff Brown, Keith MacVean and Bridget Dixon, Moore & Van Allen
COMMUNITY MEETING	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 1
STATEMENT OF CONSISTENCY	<ul style="list-style-type: none">• The Zoning Committee found this petition to be consistent with the <i>Blue Line Extension Transit Station Area Plans</i>; however, the height is inconsistent with the <i>Blue Line Extension Transit Station Area Plans</i> based on information from the staff analysis and the public hearing, and because:<ul style="list-style-type: none">• The plan recommends transit supportive uses for this site with a maximum height of 50-feet.• 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:<ul style="list-style-type: none">• The proposed site is located within ¼ mile walk distance from the 36th Street Transit Station on the LYNX Blue Line Extension; and• The proposed rezoning allows a site used for warehouse purposes to be rezoned and developed with residential and nonresidential transit supportive uses; and• This site will provide a transition from the established business district to the multi-family development on the opposite side of the AC&W railroad corridor at the 36th Street transit station; and• The request meets the area plan’s goal for activating the frontage along East 36th Street by creating a plaza area and providing space for future nonresidential uses along this main transit station area corridor; and• The 29-foot increase in height above the plan recommendation of 50 feet is minimized by the increased building setback for upper stories on 35th Street, the plaza and the 40-foot building setback on 36th Street and the site’s distance from North Davidson Street, where lower scale buildings are recommended; and• The petition supplements the base ordinance standards for TOD-M (transit oriented development – mixed-use) with design standards that ensure that uses orient and connect to public streets and the Cross Charlotte Trail;

By a 5-0 vote of the Zoning Committee (motion by Wiggins seconded by Eschert).

ZONING COMMITTEE ACTION

The Zoning Committee voted 5-0 to recommend **APPROVAL** of this petition with the following modifications and with resolution of the transportation issue pertaining to the construction of East 35th Street along the property frontage to CDOT’s satisfaction. (Note: The transportation issue has been resolved since the Zoning Committee meeting by the addition of a note indicating that the petitioner will be responsible for the base repair, milling, and paving on East 35th Street to accommodate the potential increased trips created by this petition.)

1. Removed the potential emergency access point, which crosses the proposed open space.
2. Amended Note 4A under “Access” to state that no vehicular or emergency access will be allowed from East 36th Street.
3. Deleted Note 6D and amended Note 6C under “Streetscape” to note that a 16-foot wide amenity zone with street trees in grates will be provided along East 36th Street.
4. Provided architectural details for uses along East 36th Street, which is designated as a Main Street in the adopted area plan and requires retail frontage, as follows: Added Note 6I to state that “the building façade along East 36th Street will have at least one building entrance facing East 36th Street”, and Note 6K stating that “facades facing on East 36th Street and the proposed open space shall include a minimum of 60% transparent glass between two and ten feet on the first floor. Except for areas used as common entrances, and emergency access points, the ground floor of the building facing East 36th Street may be developed with leasable, usable space for nonresidential uses as allowed by the TOD-M zoning regulations or as amenity space associated with a residential use. The nonresidential spaces will have a minimum first floor height of 14 feet and a minimum depth of 20 feet.”
5. Amended Note 6C under “Architectural Standards” to specify the standard will apply to all uses on East 36th Street instead of only nonresidential uses.
6. Amended Note 6E under “Architectural Standards” to specify that a minimum 60 percent of the linear ground floor frontage of the building facing the future Cross Charlotte Trail will be designed with ground floor active uses.
7. Amended Note 3B under “Permitted Uses” to state that nonresidential uses associated with a residential community, such as club house, fitness room, or leasing office, may not count toward the minimum 5,000 square feet of nonresidential uses.

Transportation

8. Added Note 4B under “Access” as follows: “The petitioner will coordinate the proposed streetscape improvements along East 35th Street with the parties responsible for the construction of East 35th Street across the site’s frontage. The petitioner will also coordinate with the parties responsible for the construction of East 35th Street the timing of the proposed improvements to East 35th Street with the timing of the development of the site to minimize impact of construction on the new road.”
9. The petitioner revised the site plan to remove the “jog” in the curb line through the site frontage on East 35th Street.
10. The petitioner agreed to label the rail corridor as “AC&W (NS) Corridor” and make Cross Charlotte Trail small and subordinate.

VOTE

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

ZONING COMMITTEE DISCUSSION

Staff provided an overview of the petition and noted that the petitioner has been working with CDOT regarding resolution of the outstanding Transportations issue. CDOT staff added that they continue to work with the petitioner and are close to final resolution of the outstanding

issue regarding construction of East 35th Street along the property's frontage.

Staff noted that this petition is consistent with the *Blue Line Extension Transit Station Area Plans*; however, the height is inconsistent with the Blue Line Extension Transit Station Area Plans.

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**• Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Residential and nonresidential uses as permitted in the TOD-M (transit oriented development - mixed-use) district. A minimum 5,000 square feet of nonresidential uses will be developed on the site. Nonresidential uses associated with a residential community, such as club house, fitness room, or leasing office, may not count toward the minimum 5,000 square feet of nonresidential uses.
- The ground floor of the building facing East 35th Street will be developed with leasable, usable nonresidential uses, and additional nonresidential uses may be located in the portion of the building facing East 36th Street, which will be built to accommodate nonresidential uses, and along the alley located along the southern property boundary. The nonresidential uses along East 36th Street may include those associated with a residential community.
- Vehicular site access will be from East 35th Street.
- No vehicular or emergency access will be allowed from East 36th Street.
- The existing alley will be opened and improved along the southern property boundary.
- A 16-foot setback will be provided along East 35th Street for the first 25 feet in height of the proposed building while the portion of the building over 25 feet in height will have a minimum setback of 29 feet from East 35th Street. Proposed building will be a maximum of 79 feet in height.
- A 40-foot building setback will be provided along East 36th Street.
- A 16-foot wide amenity zone with street trees within tree grates will be provided along East 35th Street and East 36th Street.
- The area between the proposed building and East 36th Street will be improved as an open space area that meets the public and private open space requirements, and will be improved with landscaping, lighting, seating, and hardscape elements.
- Pedestrian access to the building will be provided from East 36th Street.
- Building material for the principal buildings constructed will consist of a combination of brick, stone, precast stone, precast concrete, 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.
- The proposed nonresidential uses located on the ground floor of the building along East 35th Street will orient to and connect a primary entrance to the sidewalk along East 35th Street. Each commercial establishment along East 35th Street will have an operable pedestrian door to East 35th Street, which will be open and operable during the business hours of the associated use. This standard will also apply to any nonresidential use located along East 36th Street.
- Should the alley along the southern property boundary be opened and improved, the petitioner will explore options to utilize the alley and the portion of the building abutting the alley for special events, micro stores, temporary structures for the sale of goods and services, and the display of art and merchandise. The building edge along the existing alley will be designed to have collapsible and/or retractable canopies that extend over the alley to allow the alley to be used for temporary sales areas, flea markets, outdoor fresh produce stands, or mobile food vendors. The building may also be designed with retractable garage doors.
- The portion of the building located along the existing rail line will face the future Cross Charlotte Trail. The ground floor portion facing the future Cross Charlotte Trail will be designed to have spaces for nonresidential uses and will be designed to allow for the installation of operable pedestrian doors to the trail. A minimum 60% of the linear ground floor frontage of the building facing the future Cross Charlotte Trail will be designed with ground floor active uses.
- A minimum of two entrances to the trail will be provided in the future when the trail is constructed.
- The ground floor portion of the building that fronts the future Cross Charlotte Trail that is

occupied by the parking structure will be designed to avoid blank walls and any openings to the parking structure will be treated with one or more of the following elements: decorative louvers, green screens, a green wall, landscape screenings, or other architectural treatments/methods to create an interesting building façade.

- The petitioner will contribute a minimum of \$20,000 to an arts and science fund that will be established by the petitioner.
- Building entrances on East 35th Street will be located every 100 linear feet.
- Facades fronting East 35th Street will include a minimum of 60% transparent glass between two and ten feet on the first floor. For building walls located along public streets, the ground floor shall be taller than and architecturally different from upper floors with more transparency than upper floors.
- The building façade along East 36th Street will have at least one building entrance facing East 36th Street. Facades facing on East 36th Street and the proposed open space shall include a minimum of 60% transparent glass between two and ten feet on the first floor. Except for areas used as common entrances, and emergency access points, the ground floor of the building facing East 36th Street may be developed with leasable, usable space for nonresidential uses as allowed by the TOD-M (transit oriented development – mixed-use) zoning regulations or as amenity space associated with a residential use. The nonresidential spaces will have a minimum first floor height of 14 feet and a minimum depth of 20 feet.
- Utilities will be screened from the future Cross Charlotte Trail.
- Any residential units located on the ground floor shall be raised an average of 24 inches above grade and units shall be no more than five feet above graded and two feet below.
- Optional Provisions:
 - Allow a 12-foot increase in the allowed building height as measured from existing single family zoning for a resultant maximum height of 79 feet.
 - Allow parking for the eating/drinking/entertainment establishment at a rate of one space per 300 square feet instead of one space per 150 square feet as required per the ordinance.
 - Not require a functional entrance to the future multi-use trail until the trail is constructed.
- **Public Plans and Policies**
 - The *Blue Line Extension Transit Station Area Plans* recommend transit supportive uses for the proposed site.
 - The Structure Plan, which is part of the area plan, recommends a 50-foot height limit for the proposed site.
 - The plan identifies 36th Street for active ground floor non-residential uses along the frontage of the proposed site.
 - The plan acknowledges the potential future alignment of the Cross Charlotte Trail along the existing railroad line adjacent to the proposed site.
- **TRANSPORTATION CONSIDERATIONS**
 - This site is on a local street between the proposed Cross Charlotte Trail Loop/Norfolk Southern Rail right-of-way and a minor thoroughfare. Currently 35th Street dead ends into an industrial site but that site has been recently rezoned and will provide transportation facilities that connect 35th Street to the 36th Street Station of the LYNX Blue Line Extension. The current site plan provides adequate pedestrian facilities but CDOT recommends that the petitioner repair 35th Street's pavement section and provide a consistent curb line along 35th Street to adequately accommodate the additional intensity allowed by the requested zoning district.
 - **Vehicle Trip Generation:**
 - Current Zoning:
 - Existing Use: 75 trips per day (based on 21,000 square feet of warehouse uses).
 - Entitlement: 520 trips per day (based on 6,450 square feet of warehouse uses and 1,800 square feet of retail uses in the B-1 (neighborhood business) and I-2 (general industrial) districts. Too many uses are allowed in the MUDD (mixed use development) district to determine trips per day.
 - Proposed Zoning: Too many uses to determine trips per day.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Neighborhood & Business Services:** No comments received.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** The proposed district allows a variety of uses; therefore, the impact on local schools cannot be determined.

- **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.
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Attachments Online at www.rezoning.org

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Department Comments
 - Charlotte Area Transit System Review
 - Charlotte Fire Department 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
 - Transportation Review

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