

<b>REQUEST</b>	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)
<b>LOCATION</b>	Approximately 1.123 acres located south of the Norfolk Southern Railroad and north of North Davidson Street off North Davidson Street between East 33 <sup>rd</sup> Street and East 36 <sup>th</sup> Street. (Council District 1 - Kinsey)
<b>SUMMARY OF PETITION</b>	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.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	NODA 3536 LLC ECP NoDa, LLC Jeff Brown, Keith MacVean, and Bridget Dixon, Moore & Van Allen
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 1

<b>STAFF RECOMMENDATION</b>	<p>Staff recommends approval of this petition upon resolution of outstanding issues regarding transportation and site and building design.</p> <p><u>Plan Consistency</u> The petition is consistent with the adopted land use recommendation in the <i>Blue Line Extension Transit Station Area Plans</i>. However, the petition is inconsistent with the 50-foot recommended height limit in the adopted plan.</p> <p><u>Rationale for Recommendation</u></p> <ul style="list-style-type: none"> <li>• The proposed site is located within ¼ mile walk distance from the 36<sup>th</sup> Street Transit Station on the LYNX Blue Line Extension.</li> <li>• The proposed rezoning allows a site used for warehouse purposes to be rezoned and developed with residential and nonresidential transit supportive uses.</li> <li>• This site will provide a transition from the established business district to the multi-family development on the opposite side of the AC&amp;W railroad corridor at the 36<sup>th</sup> Street transit station.</li> <li>• The request meets the area plan’s goal for activating the frontage along East 36<sup>th</sup> Street by creating a plaza area and providing space for future nonresidential uses along this main transit station area corridor.</li> <li>• The 29-foot increase in height above the plan recommendation of 50 feet is minimized by the increased building setback for upper stories on 35<sup>th</sup> Street, the plaza and the 40-foot building setback on 36<sup>th</sup> Street and the site’s distance from North Davidson Street, where lower scale buildings are recommended.</li> <li>• 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.</li> </ul>
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**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.
  - The ground floor of the building facing East 35<sup>th</sup> Street will be developed with leasable, usable

nonresidential uses, and additional nonresidential uses may be located in the portion of the building facing East 36<sup>th</sup> Street, which will be built to accommodate nonresidential uses, and along the alley located along the southern property boundary. The nonresidential uses along East 36<sup>th</sup> Street may include those associated with a residential community.

- Vehicular site access will be from East 35<sup>th</sup> Street.
- The existing alley will be opened and improved along the southern property boundary.
- A 16-foot setback will be provided along East 35<sup>th</sup> 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 35<sup>th</sup> Street. Proposed building will be a maximum of 79 feet in height.
- A 40-foot building setback will be provided along East 36<sup>th</sup> Street.
- A 16-foot wide amenity zone with street trees within tree grates will be provided along East 35<sup>th</sup> Street.
- An eight-foot planting strip and eight-foot sidewalk will be provided along East 36<sup>th</sup> Street.
- The area between the proposed building and East 36<sup>th</sup> 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 36<sup>th</sup> 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 35<sup>th</sup> Street will orient to and connect a primary entrance to the sidewalk along East 35<sup>th</sup> Street. Each commercial establishment along East 35<sup>th</sup> Street will have an operable pedestrian door to East 35<sup>th</sup> 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 36<sup>th</sup> 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 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 35<sup>th</sup> Street will be located every 100 linear feet.
- Facades fronting East 35<sup>th</sup> 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.
- 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.
- **Existing Zoning and Land Use**
  - A portion of the subject property was rezoned via Petition 2008-012 to MUDD (mixed use development) to allow all uses permitted in the district.

- The site is generally surrounded on the north side of North Davidson Street by multi-family residential, industrial/warehouse, office, retail, eating/drinking/entertainment uses, and a YMCA on properties zoned I-2 (general industrial), B-1 (neighborhood business), NS (neighborhood services), MUDD-O (mixed use development, optional), TOD-M-O (transit orient development, mixed use, optional) and TOD-R (transit oriented development, residential).
- Properties located south of North Davidson Street are developed with residential, office, and retail uses in MUDD-O (mixed use development, optional) and TOD-MO (transit oriented development – mixed-use, optional), B-1 (neighborhood business), NS (neighborhood services), and R-5 (single family residential) zoning.
- See “Rezoning Map” for existing zoning in the area.
- **Rezoning History in Area**
  - Petition 2012-01 approved a MUDD-O (mixed use development, optional) site plan amendment for 3.87 acres located on the northeast corner of North Davidson Street and East 36<sup>th</sup> Street to allow an increase in the number of residential units from 160 to 250 units, and to reduce the amount of non-residential square footage within the Neighborhood Theater building from 42,000 to 22,500 square feet.
  - Petition 2012-42 rezoned 10.3 acres located on the north side of North Davidson Street between East 36<sup>th</sup> Street and Patterson Road to TOD-R (transit oriented development - residential) to allow transit supportive development within ¼ mile of the 36<sup>th</sup> Street transit station along the proposed Blue Line Extension light rail transit project
  - Petition 2015-09 rezoned 6.98 acres located on the west side of East 36<sup>th</sup> Street between Cullman Avenue and North Davidson Street to TOD-MO (transit oriented development – mixed use, optional) to allow all uses in the TOD-M (transit-oriented development – mixed use district) with associated optional provisions.
  - Petition 2015-61 rezoned 0.155 acres located on the east side of North Davidson Street between East 34<sup>th</sup> Street and East 35<sup>th</sup> Street to MUDD-O (mixed use development, optional) to renovate and expand the existing building to allow all nonresidential uses permitted in the MUDD (mixed use development) district.
  - Petition 2015-83 rezoned 0.122 acres located on the east side of North Davidson Street between Mercury Street and East 37<sup>th</sup> Street to MUDD-O (mixed use development, optional) to expand and reuse an existing residential structure as either a residence or an office.
- **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 36<sup>th</sup> 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 35<sup>th</sup> Street dead ends into an industrial site but that site has been recently rezoned and will provide transportation facilities that connect 35<sup>th</sup> Street to the 36<sup>th</sup> Street Station of the LYNX Blue Line Extension. The current site plan provides adequate pedestrian facilities but CDOT recommends that the petitioner repair 35<sup>th</sup> Street’s pavement section and provide a consistent curb line along 35<sup>th</sup> Street to adequately accommodate the additional intensity allowed by the requested zoning district.
  - See Outstanding Issues, Notes 9 through 11.
  - **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 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:** Charlotte Water has water system availability for the rezoning boundary via an existing 12-inch water distribution main located along East 36<sup>th</sup> Street and an existing two-inch water distribution main located along East 35<sup>th</sup> Street. Sewer system availability for the rezoning boundary is via an existing eight-inch gravity sewer main located along East 36<sup>th</sup> Street.
- **Engineering and Property Management:** No issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** Development of this site may require submission of an asbestos Notification of Demolition and renovation to Mecklenburg County Air Quality (MCAQ) due to possible demolition or relocation of an existing structure. A letter of notification and the required forms have been mailed directly to the petitioner by MCAQ.
- **Mecklenburg County Parks and Recreation Department:** No issues.

## OUTSTANDING ISSUES

### Site and Building Design

1. Remove the potential emergency access point, which crosses the proposed open space.
2. Amend Note 4A under Access to state that no vehicular or emergency access will be allowed from East 36<sup>th</sup> Street.
3. Add note that tree grates and/or an amenity zone will be provided along East 36<sup>th</sup> Street as recommended in the adopted station area plan.
4. Provide architectural details for uses along East 36<sup>th</sup> Street as it is designated as a Main Street in the adopted area plan and requires retail frontage.
5. Amend Note 6A under Architectural Standards to specify the standard will apply to all uses on East 36<sup>th</sup> Street instead of only nonresidential uses.
6. Amend Note 6E under Architectural Standards to specify a minimum percentage that will be ground floor occupied versus parking deck.
7. Amend Note 6I under Architectural Standards to state that facades fronting East 35<sup>th</sup> Street and East 36<sup>th</sup> Street will include a minimum of 60% transparent glass between two and ten feet on the first floor.
8. Amend Note 3D under Permitted Uses to state that a leasing office and other accessory nonresidential uses such as a fitness room may not count toward the minimum 5,000 square feet of nonresidential uses. Specify proposed nonresidential uses that are associated with a residential community.

### Transportation

9. The petitioner should revise the site plan to construct the proposed streetscape on both sides of East 35<sup>th</sup> Street as a part of this project.
10. The petitioner should revise the site plan to remove the "jog" in the curb line through the site frontage on East 35<sup>th</sup> Street.
11. The petitioner should revise the site plan to show base repair, milling, and paving on East 35<sup>th</sup> Street to accommodate the potential increased trips created by this petition.

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## 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 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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