

# Rezoning Transportation Analysis

Petition Number: 2019-115

General Location Identifier: 22350150, 22350160, 22316102

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## Revision Log:

Date	Description
09-29-2019	First Review
11-15-19	Second Review
1-9-2020	Third Review

## General Review Information

The site is 454.24 acres generally bound by Ballantyne Commons Parkway (major thoroughfare, city maintained), N Community House Road (major thoroughfare, city maintained), I-485 (freeway, state maintained), and McAlpine Creek. The site is in a center outside Route 4. The petition includes three phases as part of the overall development. Phase I and Phase II are bisected by US 521. The current traffic impact study is only studying Phase I and Phase II. A future traffic impact study will be performed for Phase III.

## Active Projects Near the Site:

- I-485 NCDOT Project
  - Widening including managed lanes and rapid transit.
- US-521/Johnston Rd
  - Feasibility study to determine needed improvements

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*CDOT's review of this rezoning petition is intended to ensure consistency with the Transportation Action Plan (TAP) which seeks to ensure that the City's transportation network supports current and future land uses and includes streets that provide safe and comfortable mobility for motorists, pedestrians, bicyclists, and transit users.*

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*This document is primarily for communication to Planning Department staff as part of the overall City staff analysis of the rezoning petition and includes an overall summary of the case from a transportation perspective, information on trip generation, and resolved or outstanding site plan concerns. Additional advisory information about the driveway permit process is provided for information only.*

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Based on our review of the petition, we offer the following information for your consideration.

## Transportation Summary

The petitioner is requesting to retain the remaining entitlements from Rezoning Petition 2011-044. These entitlements and approved transportation improvements will be transferred to parcels on the rezoning packet. All the transportation improvements for Rezoning Petition 2011-044 have been completed.

NCDOT and CDOT are requiring a Traffic Impact Study (TIS) for the review of the Development Phase I and II.

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## Trip Generation

Scenario	Land Use	Intensity	Trip Generation (vehicle trips/day)	Source
Existing Use	Office Golf Course Hotel Quality Restaurant Day Care Center Medical Office	3,971,730 sf 18 holes 592 rooms 44,460 sf 8,310 sf 140,980 sf	53,570	Tax Record
Entitlement with Current Zoning	Office Apartments Hotel	6,525,000 sf 600 dwellings 600 rooms	70,590*	RZ 2011-044
Proposed Uses for current TIS (PH I & PH II)	Townhomes Apartments (mid) Apartments (high) Office Grocery Fast Food w/DT Retail Amphitheater	300 dwellings 1400 dwellings 800 dwellings 400,000 sf 125,000 sf 5,000 sf 170,000 sf	41,618**	Traffic Impact Study: 08-08-19
<p><b>* Entitlement with Current Entitlements</b>  <b>Approved Rezoning 2011-044 performed a Traffic Impact Study, and all the roadway improvements for this petition have been constructed.</b></p> <p><b>** Phase I &amp; II Development</b>  <b>Rezoning Petition 2019-115 is performing a new traffic impact study to provide transportation mitigations for the new proposed land uses.</b></p> <p><b>Phase III Development will perform a traffic impact study to provide transportation improvements to mitigate for those proposed entitlements.</b></p>				

## Outstanding Issues

Strikeout = Not an outstanding issue

1. ~~Curbline~~ The proposed zoning district has a setback measured from back of the existing or proposed future curbline.
  - a. ~~Johnston Road/521:~~ Future curb and gutter will be determined by the future NCDOT US 521 project. US 521 is an NCDOT state maintained and controlled access facility.
  - b. ~~Ballantyne Commons Parkway:~~ The future location of curb and gutter is in its existing location.
  - c. ~~Ballantyne Corporate Place:~~ The future location of curb and gutter is in its existing location.

The site plan should show the curb and gutter labeled and dimensioned from the centerline for each road

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## 2. **Traffic Study** A Traffic Impact Study is necessary for the complete review of this petition.

Staff will receive the petition and begin work on it, but the public hearing will not be scheduled until the TIS is received. This will allow for the minimum time necessary for CDOT to review and approve the study and reach agreement with the petitioner on the required transportation commitments and have them included on the last site plan submitted no fewer than 4 weeks prior to the public hearing. Therefore, additional traffic mitigation comments may be forthcoming once the TIS is approved by CDOT and NCDOT. The traffic study needs to be submitted to the City by the end of November 2019.

- a. The petitioner should revise the site plan, conditional notes, and maps to match the maps provided as part of the Traffic Impact Study exhibits.

- ~~b. **New comment based on revised site plan (10/16/19):** The petitioner should revise the site plan and conditional notes to state: If any entitlements from Phase I and Phase II are to be built outside the study area of the Traffic Impact Study, the Traffic Impact Study will be updated to reflect the changes.~~

## ~~3. The petitioner should revise the site plan and conditional notes to show a table that clearly shows the existing 2011-044 entitlements, proposed entitlements, and combined entitlements.~~

- ~~a. The site plan and conditional notes under Section I. Community Context, Vision & General Provisions should clearly show 2011-044 entitlements as shown on Sheet RZ 3.0 site area and the rezoning history carryover quantities, as well graphically indicate where the development may occur within the site.~~

## 4. The petitioner should revise conditional note III. d. "Phase III Development & Major Transportation Event" and Major Transportation Events as referenced under V. Transportation/Roadway Improvements & Implementation stating a *Traffic Impact Study* will be provided for Phase III development prior to the permitting of any portion of Phase III development.

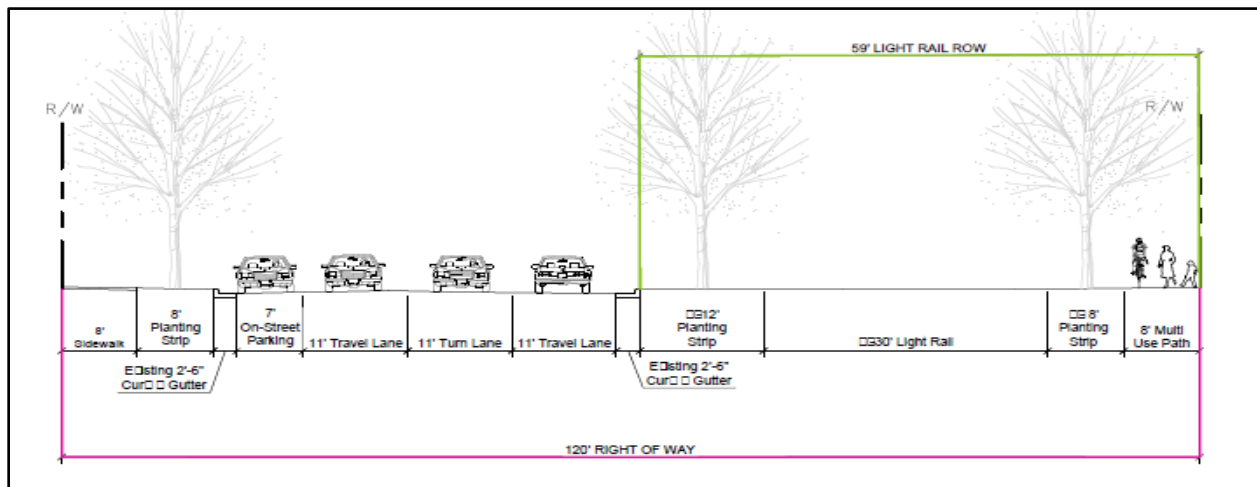
- a. **Updated comment based on revised site plan (12/20/19):** The petitioner should revise the site plan and conditional note "d. Phase III Development & Major Transportation Event" and remove the Major Transportation Event language. The traffic impact study for Phase III should not be combined with a major transportation event.

## ~~5. **Revised comment based on revised site plan (10/16/19):** The petitioner should revise the site plan on Sheet RZ-7.0B and conditional notes to show the proposed cross-section for Ballantyne Corporate Place incorporating the future light rail alignment. The petitioner should include language committing to dedicating and/or reserving 120' of right-of-way for the future light rail (see the below conceptual street/light rail cross section on Ballantyne Corporate Place).~~

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6. ~~The petitioner should revise the plan and provide Sheet RZ-10 Transportation Improvements Map/Drawings, as referenced in multiple sections of Development Notes.~~
  7. **New comment based on revised site plan (10/16/19):** The petitioner should revise Sheet RZ-7.0A and identify the proposed Public, Private Network, and Private streets. CDOT requests all private streets to have a public easement.
  8. **New comment based on revised site plan (10/16/19):** The petitioner should revise the conditional notes in the Transportation section reference Sheet RZ-10.0 and change to Sheet RZ-9.0 Transportation Improvements to match the rest of the rezoning document.
  9. **New comment based on revised site plan (10/16/19):** The petitioner should revise conditional note "c. Rezoning Plan Description" to match the table of contents with the exhibits.
    - a. "Sheet RZ-11.0 Transportation Improvements Map/Drawings" was not submitted with the rezoning document.
  10. **New Comment based on revised site plan (10/16/19):** The petitioner should revise the conditional notes and remove note 6. iii. Under II. MUDD Optional Provisions.
  11. **Revised comment based on revised site plan (10/16/19):** The petitioner should revise the conditional notes by adding language to optional request #9 on sheet RZ-7.0B stating the locations for the bike facilities will be easily and safely accessible to streets, greenways, and doors of buildings.
  12. Language should be added to the conditional notes committing to installing bike facilities in areas that will provide the best and safe access to the facilities within the Mobility Hubs.
    - a. The petitioner should revise the site plan and conditional notes to include pedestrian and bicycle signals, as this will be a walkable development.
- Comment clarification based on revised site plan (10/16/19):** Language should be added to the conditional notes stating the commitment to pedestrian and bike signals where appropriate.
- b. The petitioner should revise the site plan and conditional notes to commit to pedestrian lighting within the development to encourage walkability during all times of the day.

# Rezoning Transportation Analysis

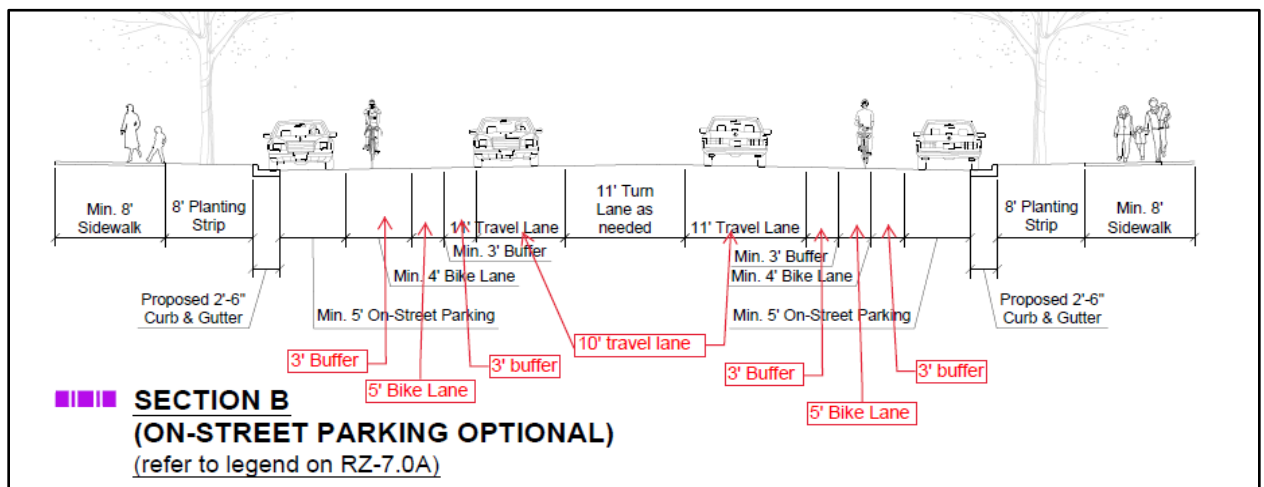
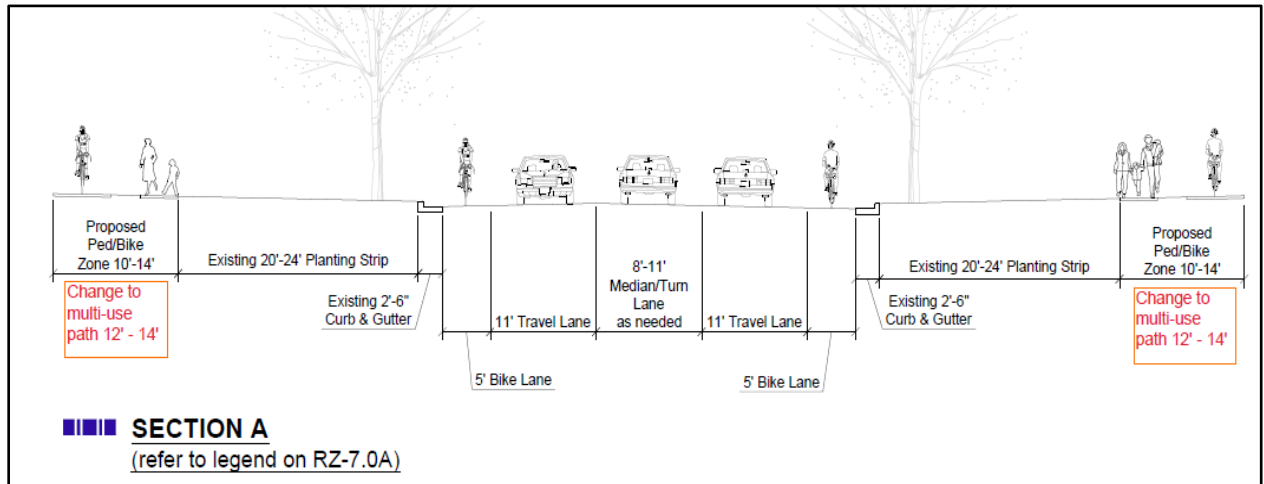
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**Comment clarification based on revised site plan (12/20/19):** Language should be added to the conditional notes committing to the installation of pedestrian lighting on all streets to support the proposed walkability of the development.

- c. ~~The petitioner should revise the site plan and conditional notes showing the internal road network cross-sections meeting USDG Standards Per Chapter 20 Subdivision ordinance and the City's Charlotte BIKES policy on Sheet RZ-7.0B. The petitioner should include the USDG street typical each cross-section is meeting.~~

## Updated comments to proposed Cross-sections Based on Revised Site Plan (10/16/19):



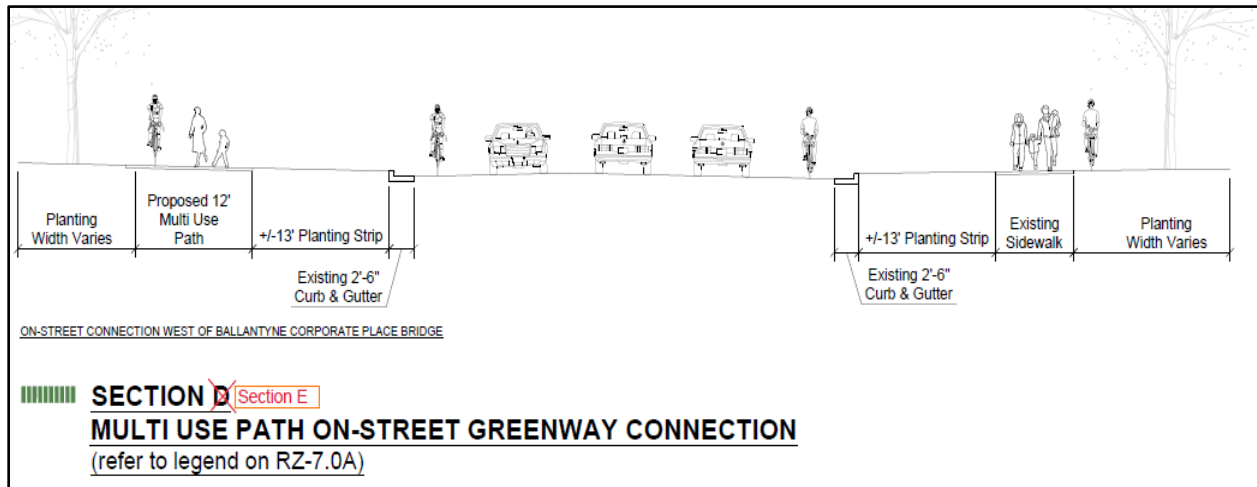
13. ~~Sheet RZ-7.0B shows 2 "Section D" cross-sections and conflict with the street network on Sheet RZ-7.0A. The petitioner should revise the site plan showing the correct matching cross-sections between Sheets RZ-7.0A and RZ-7.0B.~~

- a. ~~**Comment Clarification Based on Revised Site Plan (10/16/19):** Section D cross section in Sheet RZ7.0B should be labeled Section "E" to match the site plan in Sheet RZ 7.0A.~~

# Rezoning Transportation Analysis

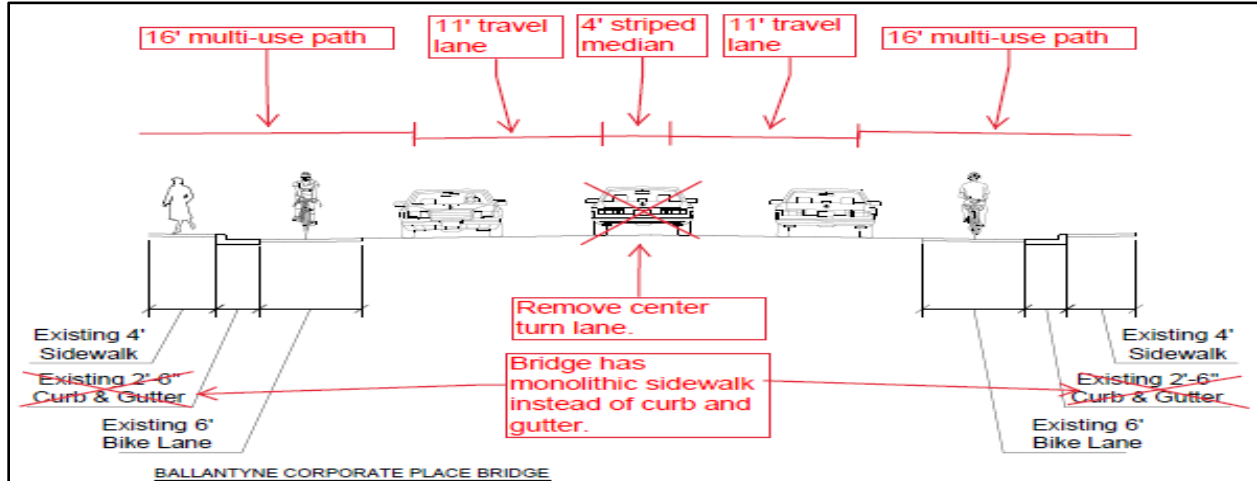
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14. The petitioner should revise the site plan and conditional notes to commit to reallocating space on Ballantyne Corporate Place bridge over Johnston Road/521 to be 2 travel lanes, buffered bike lanes, and 8.5' sidewalks.

- a. **Comment Clarification Based on Revised Site Plan (10/16/19):** The Ballantyne Corporate Place bridge cross-section as depicted on RZ-7. OB should be updated to reflect the comments provided below. Furthermore, the total width on the cross-section shown on the rezoning plan does not match the existing width of the bridge. The petitioner should verify the correct width of the bridge is shown accurately on the rezoning plan.



15. Ballantyne Corporate Place is an identified Overland Connector on the greenway master plan. The petitioner should revise the site plan and conditional notes to commit to construct a 12' Multi-Use Path for the entire length of Ballantyne Corporate Place.

16. The petitioner should revise the site plan and conditional note(s) to show the proposed greenway connection on Sheet RZ-8.0A does not conflict with the I-485 Inner express lane flyover NCDOT will build.

- a. **Comment Clarification Based on Revised Site Plan (10/16/19):** Language should be added to the conditional notes stating coordination with NCDOT to avoid conflicts.

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17. ~~The petitioner should revise the site plan and conditional notes to commit to construct a 12-foot multi-use path along both sides of Johnston Road/521 and across the site frontage. The multi-use path can be outside of the right-of-way in a permanent public easement.~~ **Comment Rescinded**
18. ~~The petitioner should revise the site plans and conditional notes on Sheet RZ-9 Transportation Improvements to provide a pedestrian and bicycle connection when a street may not be feasible under the subdivision ordinance due to physical constraints to still meet the intent of a good grid network. These types of connections will provide a more robust grid network (like downtown Charlotte) to help reduce the number of vehicular trips within the development.~~
19. ~~The petitioner should revise the site plan and conditional notes on Sheet RZ-9 Transportation Improvements to provide a phasing plan for all transportation improvements (vehicular, pedestrian, bicycle) for all phases to better understand the Transportation network will be constructed for the entire development.~~
20. **Revised comment based on revised site plan (12/20/19):** The petitioner should revise the site plan and conditional notes on Sheet RZ-9 Transportation Improvements to commit to construct a 12-foot multi-use path on Ballantyne Commons Parkway between Johnston Road/521 and the western most property line.
21. The petitioner should revise the site plan and conditional notes to commit to a Transportation Demand Management (TDM) Plan. The plan should be as detailed as possible to capture the different modes to reduce single vehicle occupancy vehicles within the development, as well as origin and destination trips to the development. The plan should include a monitoring component verifying the TDM strategies effectiveness and to help determine whether modifications is needed.
22. ~~The petitioners should revise the site plan and conditional notes on Sheet RZ-9 Transportation Improvements to identify and commit to future bus stop locations, bus shelters, bus pullouts for future bus rapid transit, as part of the future CATS plans.~~
  - a. ~~**Comment Clarification based on updated site plan (10/16/19):** Language should be added to the conditional notes committing to the installation of the facilities as part of the Mobility Hubs for each phase of the development.~~
23. The petitioner should revise the site plan and conditional notes to commit to develop a Special Event Traffic Management Plan for the proposed amphitheater events. The plan should be a comprehensive plan to take into consideration weekday and weekend peak times to reduce overall delays on internal and external public streets. This plan needs to be coordinated with CDOT's Special Event Section and CMPD.
24. ~~The petitioner should revise the site plan to add a note specifying dedication and fee simple conveyance of all rights of way to the City before the site's first building certificate of occupancy is issued. CDOT requests right of way set at 2' behind back of sidewalk where feasible.~~
25. ~~The petitioner should revise the site plan to add a note specifying all transportation improvements as referenced on RZ-9 Transportation Improvements will be approved and constructed before the site's first building certificate of occupancy is issued. The petitioner may phase transportation improvements if said improvements and phasing are explicitly described in site plan notes.~~
26. **New Comment Based on revised Site Plan (12/20/19):** The petitioner should revise the conditional notes and address CDOT comments provided in the "General Development Standards For Ballantyne Reimagined 2019" document dated 12/17/19.
27. **Resolved** ~~Sample format for comment that is resolved~~

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## Advisory Information

The following are requirements of the developer that must be satisfied prior to driveway permit approval. We recommend that the petitioner reflect these on the rezoning plan as-appropriate.

1. According to the City of Charlotte's Driveway Regulations, CDOT has the authority to regulate/approve all private street/driveway and public street connections to the right-of-way of a street under the regulatory jurisdiction of the City of Charlotte.
2. Adequate sight triangles must be reserved at the existing/proposed street entrance(s). Two 35' x 35' sight triangles (and two 10' x 70' sight triangles on North Carolina Department of Transportation on NCDOT maintained streets) are required for the entrance(s) to meet requirements. All proposed trees, berms, walls, fences, and/or identification signs must not interfere with sight distance at the entrance(s). Such items should be identified on the site plan.
3. The proposed driveway connection(s) to public streets will require a driveway permit(s) to be submitted to CDOT (and the North Carolina Department of Transportation on NCDOT maintained streets) for review and approval. The exact driveway location(s) and type/width of the driveway(s) will be determined by CDOT during the driveway permit process. The locations of the driveway(s) shown on the site plan are subject to change in order to align with driveway(s) on the opposite side of the street and comply with City Driveway Regulations and the City Tree Ordinance.
4. All proposed commercial driveway connections to a future public street will require a driveway permit to be submitted to CDOT for review and approval.
5. Any fence or wall constructed along or adjacent to any sidewalk or street right-of-way requires a certificate issued by CDOT.
6. A Right-of-Way Encroachment Agreement is required for the installation of any non-standard item(s) (irrigation systems, decorative concrete pavement, brick pavers, etc.) within a proposed/existing City maintained street right-of-way by a private individual, group, business, or homeowner's/business association. An encroachment agreement must be approved by CDOT prior to the construction/installation of the non-standard item(s). Contact CDOT for additional information concerning cost, submittal, and liability insurance coverage requirements.



**GENERAL DEVELOPMENT STANDARDS FOR BALLANTYNE REIMAGINED 2019**  
**REZONING PETITION #2019-115**  
**[December 17, 2019]**

**CDOT Comment:** Please remove all “NOTE TO STAFF:” sections (typ.)

**Site Development Data – Master Plan Site:**

- Acreage:** ± 455 acres
- Tax Parcel #s:** See Sheet RZ-10.0
- Existing Zoning:** BP(CD) and O-3(CD)
- Proposed Zoning:** MUDD-O, with five (5) year vested rights in these Development Standards.
- Existing Uses:** Portions of Master Plan Site are currently developed for office/commercial uses, parking, open space, golf course and other similar uses.
- Proposed Uses:** Uses permitted by right and under prescribed conditions together with accessory uses, as allowed in the MUDD-O zoning district (as more specifically described below).
  
- Maximum Gross Square feet of Development (e.g. development levels):** Set forth in Section III below.
- Maximum Building Height:** Set forth in Sheet RZ-4.0 with respect to each Development Area and in the Optional Provisions set forth below. Height will be measured as defined by the Ordinance as modified by the Optional Provisions below and otherwise in the Rezoning Plan.
- Parking:** As specified in the MUDD parking and loading standards of the Ordinance as may be modified by the Optional Provisions below.

**I. Community Context, Vision & General Provisions:**

**a. Community Context: Prior Ballantyne Rezoning.** As reflected on Sheet RZ-3.0, original Ballantyne was first rezoned by the Mecklenburg County Commission on October 18, 1993 (Pet. #93-23(c), as amended by Pet. #94—23(c) and 96 (c) and other administrative amendments, collectively the “Original Ballantyne Rezoning”), and related to ±2,010 acres developed over time as a major master planned community. In 2011, the ±520 acre portion of Original Ballantyne Rezoning represented by the Corporate Park was rezoned (Pet.#2011-044, as amended, the “2011 Ballantyne Rezoning”), and certain portions of the Original Ballantyne Rezoning were included and others not included in the 2011 Ballantyne Rezoning as generally depicted on Sheet RZ-3.0.

**b. Excluded Parcels; Rezoning Super-cedes Earlier Rezoning as to Rezoning Site.** As generally depicted on Sheet RZ-3, portions of 2011 Ballantyne Rezoning are excluded from this Rezoning and all portions of the Original Ballantyne Rezoning not included in the 2011 Ballantyne Rezoning are likewise not included in this Rezoning; those parcels that are excluded from this Rezoning are the “Excluded Parcels.” Only those parcels expressly set forth on Sheet RZ-10 as being included in this Rezoning (the “Rezoning Site” or “Site”) shall be governed by the Rezoning Plan, and other parcels shall remain bound by either the Original Ballantyne Rezoning or the 2011 Ballantyne Rezoning, as applicable. Furthermore, as to the Rezoning Site, this Rezoning Plan super-cedes all prior rezoning petitions and amendments including as applicable the Original Ballantyne Rezoning and the 2011 Ballantyne Rezoning. It is understood that an administrative site plan amendment may be required to confirm the resulting 2011 Ballantyne Rezoning parcels and applicable development rights thereunder.

**c. Rezoning Plan Description.** The following items form the rezoning plan (the “Rezoning Plan”) for Rezoning Petition #2019-115 (the “Petition” or “Rezoning Petition”) filed by Northwood Development LLC, as Petitioner (hereinafter the “Petitioner” along with successors and assigns, and any other parties described below) for the Rezoning Site:

- Sheet RZ-1.0 Cover Sheet, Vision Statement & Sheet Index
- Sheet RZ-2.0 Context Map
- Sheet RZ-3.0 Site Area / Rezoning History
- Sheet RZ-4.0A Technical Data Sheet
- Sheet RZ-4.0B Technical Data Sheet Charts
- Sheet RZ-5.0. Conceptual Development Phases
- Sheet RZ-6.0A-D Development Standards and Transportation Notes
- Sheet RZ-7.0A Conceptual Proposed Street & Bicycle/Pedestrian Network
- Sheet RZ-7.0B1 Conceptual Proposed Cross Sections
- Sheet RZ-7.0B2 Conceptual Proposed Cross Sections
- Sheet RZ-7.0C Conceptual Proposed Frontages
- Sheet RZ-8.0 Conceptual Proposed Environmental Commitments
- Sheet RZ-9.0A Transportation Improvements Phase 1
- Sheet RZ-9.0B Transportation Improvements Phase 2
- Sheet RZ-10.0A Existing Development & Included Parcel Data
- Sheet RZ-10.0B Rezoning Boundary Metes and Bounds Map
- Sheet RZ-11.0 Adjacent Parcel Data
- Sheet RZ-12.0 CATS Overall Transit

Each of the above Sheet RZ items are referred to herein as a “Sheet” or collectively the “Sheets”, and sub-sheets such as Sheets 4.0.A and 4.0.B may be referred to together as Sheet 4.0.

**d. Zoning Classifications/Ordinance.** Development of the Rezoning Site will be governed by the Rezoning Plan as well as the applicable provisions of the City of Charlotte Zoning Ordinance (the “Ordinance”). Unless the Rezoning Plan establishes more stringent standards, the regulations established under the Ordinance for the MUDD-O zoning classification for the Rezoning Site shall govern all development taking place on the Rezoning Site, subject to the Optional Provisions provided below.

**e. Development Areas & Contemplated Phasing.**

1. For ease of reference and as an organizing principle associated with the master planned nature of the development associated with the Rezoning Plan, a series of four (4) development areas (along with sub-areas) are generally depicted on Sheet RZ-4.0 (each a “Development Area” and collectively the “Development Areas”). The exact boundaries of the Development Areas may be subject to modifications to account for Development/Site Elements (as defined below) and other modifications needed to fulfill the design and development intent of the Rezoning Plan. Any such minor changes may be requested and processed through an administrative amendment per Section 6.207 of the Ordinance.

2. The overall development will be phased only in connection with transportation improvements described in Section V. As generally depicted on Sheet RZ-5.0, the initial phase(s) of development are expected to focus on Development Area A with the creation of the urban residential, retail/EDEE/personal services mixture of uses, along with substantial open space areas, to add to the existing office based uses within the Rezoning Site, and on

Development Area C2 which is contemplated to contain retail/EDEE/personal services uses, including possibly a grocery use all with convenient access to Community House Road. It is contemplated that the next phases of development will focus largely on Development Areas B and C1 with additional residential, retail/EDEE/personal services and some office based development, along with substantial open space areas. While the above describes the planned nature of the development phasing, it is understood that development of the permitted uses can occur on other portions of the Rezoning Site, including those portions located west of Highway 521, as the Petitioner responds and adjusts to market conditions, demand, development constraints and other factors, subject to the limitations on development levels for portions of the Site described in Section III.e. below.

**CDOT Comment:** The petitioner should revise the site plan and conditional note (I.e.2) to provide clarity for reserving the option to develop west of Hwy 521 during Phases I and II. The conditional note language is not referenced or graphically depicted within RZ-4.0A and/or RZ-5.0. The current TIS accounts for development occurring east of Hwy 521. If development is to occur west of Hwy 521, the conditional note should be revised to commit to updating the TIS, to be approved by CDOT & NCDOT, with associated revised transportation improvements to be constructed prior to the first CO for development occurring west of Hwy 521. If the petitioner desires to develop west of Hwy 521 during Phases I and II, the petitioner would be required to deduct the proportionate development density from the Phase I or II's land use development level from Table III(c); and trip generation conversion table tracking and conversions would be required to be recorded within Phases I or II.

**f. Graphics and Alterations/Modifications/Planning Director Authority.**

1. Any schematic depictions, as applicable, of the uses, parking areas, sidewalks, structures and buildings, building elevations, driveways, streets (roads), greenway and Development Areas (as defined below) and other development matters and site elements (collectively the “Development/Site Elements”) set forth on the Rezoning Plan should be reviewed in conjunction with the provisions of these Development Standards. The layout, locations, sizes and formulations of the Development/Site Elements that may be depicted on the Rezoning Plan are graphic representations of the Development/Site elements proposed. Except as otherwise expressly set forth in the Development Standards, changes to the Rezoning Plan, not anticipated by the Rezoning Plan nor reasonably deemed by Planning Staff as so minor as not to require an administrative amendment, will be reviewed and approved as allowed by Section 6.207 of the Ordinance.

2. Since the Project has not undergone the design development and construction documentation phases, it is intended that this Rezoning Plan provide for flexibility in allowing some alterations or modifications from the graphic representations of the Development/Site Elements. Therefore, as indicated above, there may be instances where minor modifications that don't materially change the overall design intent depicted on the Rezoning Plan such as minor modifications to the Development Areas (as defined below) or the Development/Site Elements, may be allowed by the Planning Staff/Planning Director, in their discretion, without requiring the administrative amendment process per Section 6.207 of the Ordinance; in other instances modifications shall be reviewed and approved as allowed by Section 6.207.

3. Furthermore, and in addition to the foregoing, at any time the Petitioner, or assigns, may seek approval of the development sought by filing of a site plan amendment rezoning pursuant to the requirements of Section 6.207 of the Ordinance.

**g. Number of Buildings Principal and Accessory.** Given the master planned nature of the Rezoning, there is not a limitation on the number of buildings permitted on the site. Development will be governed by the development levels set forth in Section III below.

**h. Planned/Unified Development.** The Rezoning Site and each Development Area and parcel created therein shall be viewed as a planned/unified development plan as to the Development/Site Elements as may be generally depicted on the Rezoning Plan and shall be viewed with Excluded Parcels as described on Sheet RZ-3.0, as a planned/unified development; as such, except where design guidelines or standards are set forth in the Rezoning Plan, side and rear yards, buffers, building height separation standards, FAR requirements, and other similar zoning standards will not be required internally between improvements and other Development/Site Elements located within the Rezoning Site and as to the applicable adjacent Excluded Parcels. Furthermore, the Petitioner and/or owner of the applicable portion of the Rezoning Site reserve the right to subdivide portions or all of the Rezoning Site and create lots within the interior of the portion of the Rezoning Site without regard to any such internal separation standards and FAR requirements; provided, however, all such separation standards along the exterior boundary of the Rezoning Site (except along the Excluded Parcels) shall be adhered to. In addition, any FAR requirements, if applicable, will be regulated by any development limitations set forth in this Rezoning Plan for the Rezoning Site taken as a whole and not individual portions or lots located therein.

**CDOT Comment:** Note: while the petitioner does reserve the right to subdivide either portions or the entire Site, the TDM requirements, as outlined within a future Development Agreement (DA), will be transferred over to each future property owner.

**i. Five Year Vested Rights.** Per Section 1.110 of the Ordinance and N.C.G.S. Section 160A-385.1, due to the master planned large scale nature of the development & its timing, and the level of investment, among other factors, this Petition includes vesting of the Rezoning Plan and the Rezoning Site for a five (5) year period, but such provisions shall not limit any other vested rights at common law or otherwise.

**j. Special Definitions & Clarifications.** In addition to certain defined terms set forth in the Development Standards, the following apply to certain definitions:

1. **Active Open Space.** References to the term “Active Open Space” or “active open space” (whether capitalized or not) shall contain features that characterize active or usable open space areas such as: landscaping, lawns, gardens, benches and other seating areas, pedestrian and bicycle paths, trails, art features, water features/fountains, parks, dog parks, fishing ponds, accessible creeks, streams and storm water ponds, putting greens, golf courses, amphitheaters, and/or other types of formal or informal recreational facilities and/or other similar facilities and improvements.

2. **Blank Wall, Ground Floor.** The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. Any wall less than five feet in height is not considered to be a blank wall.

3. **Blank Wall, Upper Floor.** The horizontal or vertical linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements such as banding, medallions, artwork such as murals and mosaics, change in wall plane of at least three inches, or other architectural or material embellishment. Any wall with a minimum dimension of less than five feet (5') (height or width) is not considered to be a blank wall.
4. **Commercial Uses.** References to the term “commercial uses” or “Commercial Uses” (whether capitalized or not) shall mean office uses, retail uses, EDEE uses and Personal Services uses, and the term “non-office commercial uses” or “Non-office Commercial Uses”) (whether capitalized or not) shall mean retail uses, EDEE uses and Personal Services uses. **[NOTE TO STAFF: as discussed before, definition is tailored to address traffic aspects related to use conversions below]**
5. **Development.** References to “Development” and/or “development” (whether capitalized or not) shall mean and refer to Existing Built Development, Existing Built Development Expansion and/or New Development, as defined below, as the context dictates. **[NOTE TO STAFF: as discussed before, definition is needed in a few places to address built environment aspects]**
6. **Development Levels.** Reference is made to Section III below and to Sheet RZ-4.0, for the permitted uses and development levels permitted within the Development Areas which shall govern the total maximum development level of gross floor area for all such listed uses, subject to the conversion rights set forth in Section III, and the provisions of Section I.I.15 of these Development Standards. **[NOTE TO STAFF: this reference adds clarity as to later references to development levels]**
7. **Existing Built Development.** Existing Built Development means buildings, structures, parking, pavement, and related built improvements in existence as of the date of the rezoning approval (and shall include interior alterations or improvements and exterior expansions that do not constitute Existing Built Development Expansion nor New Development, each as defined below).
8. **Existing Built Development Expansion.** Existing Built Development Expansion shall mean an exterior addition and/or expansion to Existing Built Development that increases the building footprint, pavement and/or parking areas, but shall not include interior renovations, exterior façade improvements, repairs, and/or upgrade expansions of less than 5% of the associated building footprint or less than 20% of the parking area. **[NOTE TO STAFF: Petitioner needs some flexibility in modest additions/expansions not requiring greater compliance with MUDD designs – please work with us]**
9. **Gross Floor Area Clarification.** When determining the maximum development levels set forth in this Rezoning Plan, the term gross floor area shall be defined as set forth in the Ordinance except that it shall also exclude any surface or structured parking facilities (including, without limitation, corridors and elevators within such facilities), enclosed loading dock/service areas, and outdoor dining and gathering areas whether on the roof of the building or at street level. **[NOTE TO STAFF: as discussed before and as done throughout many MUDD petitions, this is needed because Ord. definition includes for instance structured parking which clearly cannot be part of square footage calculations for development level maximums]**

10. **Limited Service Restaurant.** A “Limited Service Restaurant” or “limited service restaurant” (whether capitalized or not) shall mean a restaurant with no more than 3,000 square feet of gross floor area serving primarily items that do not require on-premise cooking of food (other than heating, micro-wave cooking or similar process and the baking of premixed dough).\

11. **Multi-Family Stacked Unit.** Stacked unit design refers to multi-family residential designed as a structure with multiple dwelling units accessed by one or more common entryways so that units may have individual entrances for ground floor units.

12. **New Development.** “New Development” means development, redevelopment and/or replacement of buildings, structures, parking, pavement and related improvements that does not constitute either Existing Built Development nor Existing Built Development Expansion.

13. **Open Space.** References to the term “open space” or “Open Space” (whether capitalized or not) shall have the meaning ascribed to such term in the Ordinance but for further clarification shall include passive and active open space such as parks, golf courses, athletic fields, nature trails, bike/scooter paths, walkways, food court areas, outdoor dining areas, greenways, buffers, gathering places, amphitheaters, outdoor performance spaces, preserves, floodplains, streams, storm water ponds and facilities, plazas, tree save areas, wildlife hubs and habitats, and other similar open and unobstructed areas of land or water.

14. **[Other Permitted MUDD Uses.** Reference in the Development Standards and Sheet RZ-4.0 to other MUDD permitted uses that are not set forth within the categories of commercial uses, hotel/hospitality uses and residential uses set forth in *Table III.c.* shall mean and refer to all uses permitted by right or under prescribed conditions in the MUDD zoning district other than the enumerated categories above and those MUDD uses expressly prohibited in Section III.b. below, together with all permitted accessory uses. For clarity, these other permitted MUDD uses shall include, without limitation: schools, religious institutions, congregate care facilities, and similar uses; recreation (indoor and outdoor) uses including but not limited to gyms, YMCAs, fitness facilities, athletic facilities indoor and outdoor, play areas, dog parks, parks, golf courses and similar uses; civic, social service, or fraternal uses, galleries, museums, theater, indoor amphitheater/outdoor performance facilities; community gardens, urban farms, farmers markets, areas used for food truck and mobile food vending, kiosks, shipping container structures or other similar “tactical urbanism type permitted structures as well as parking for such uses, and/or similar uses as described herein. Given the nature of these uses, no development level limits on these uses shall apply for gross floor area of up to 100,000 square feet EXCEPT that (i) each indoor recreation use/facility of greater than 10,000 sf of gross floor area and in the aggregate of principal 20,000 square feet of gross floor area shall count against the development levels for commercial uses set forth for the Rezoning Site; provided, further, however, it is understood that indoor recreation uses associated with schools, religious institutions or the like shall be excluded from the above-referenced exception.] **[NOTE TO STAFF: this has been scaled back significantly, but why does Staff want to discourage civic uses that add to community fabric while no driving significant traffic]**

15. **Personal Services Establishment.** An establishment that provides frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to,

beauty shops, barbershops, tanning salons, electronics repair shops, nail salons, laundromats, health clubs, dry cleaners, and tailors.

16. **Prominent Entrance.** A building entrance that is visually distinctive from the remaining portions of the facade where it is located.

- i. For nonresidential, mixed-use, and multi-family stacked units, entrances that contain at least three of the following are considered a prominent entrance: decorative pedestrian lighting/sconces; architectural details carried through to upper stories; covered porches, canopies, awnings or sunshades; archways; transom or sidelight windows; terraced or raised planters; common outdoor seating enhanced with specialty details, paving, landscaping, or water features; double doors; stoops or stairs.
- ii. For multi-family attached units, entrances that contain one or more of the following features are considered a prominent entrance: porches, raised steps and stoops with or without roof overhangs, decorative railings.

## **II. MUDD Optional Provisions:**

a. **Optional Provisions.** The Optional Provisions set forth below and in other sections of the Development Standards with reference to “*Optional Provision(s)*” shall apply to development on the Site. Each such Optional Provision shall not be limited by the provisions related to other Optional Provisions:

1. To allow during the staging and phasing of development on the Site, surface parking in lieu of parking decks on portions of the Site on an interim basis may be allowed provided that such surface parking areas will meet all required minimum setbacks, streetscape and screening requirements and such interim period shall last for up to 36 months per location or development site, and such time may be extended by the Planning Director for an additional 12 months based on a showing of delays in the phase of development beyond the reasonable control of Petitioner, or assigns [*deviates from provisions of MUDD prohibiting parking between the building and street such as MUDD Section 9.8507(2) Parking and Loading Standards, among others.*]
2. To encourage engaging places with a variety of experiential uses often that operate on a more temporary basis (*not to exceed six months per location*) such as mobile food vending and tactical urbanism type uses within portions of the Active Open Space areas on the Site, surface parking on an interim basis for temporary uses including gravel and composition surfaces but not adhering to the standards for permanent parking contained in the Ordinance may be allowed provided that such interim surface parking areas will meet all required minimum setbacks [*deviates from provisions of MUDD prohibiting parking between the building and the street such as MUDD Section 9.8507(2) Parking and Loading Standards among others contained in Chapter 12 of the Ordinance*]
3. To allow vehicular parking, maneuvering, valet and ride-share services (including without limitation, drop off areas, servicing areas and related parking areas) and service between and to the side of the proposed buildings associated with New Development (See Section II.a.4. for Existing Built Development) and Existing Built Development Expansion, and adjacent streets, subject to compliance with applicable design guidelines associated with the applicable use set forth in Section VI of these Development Standards. (*See MUDD*



*Section 9.8507.(2) Parking and Loading Standards of the Ordinance among other provisions.)*

**CDOT Comment:** No service maneuvering for the loading/unloading of larger service trucks should occur within the public right-of-way. Please clarify instances when this optional provision may be used. Per MUDD Sectional 9.8507(2) - No surface parking or maneuvering space is permitted within any required setback, or between the permitted use and the required setback, except that driveways providing access to the parking area may be installed across these areas. It is the intent that these driveways are as nearly perpendicular to the street right-of-way as possible. Ride-share pick-up and drop-off areas should be recessed out of vehicular travel lanes within the public r/w.

4. To allow deviations from MUDD standards with respect to Existing Built Development, including without limitation, existing, modified, enhanced and/or expanded vehicular parking, maneuvering, valet and ride-share services (including drop-off areas, servicing areas and related parking areas) and service between and to the side of existing buildings and adjacent streets, blank wall treatments and the like, all without creating any non-conforming use/structure concerns. *(See MUDD Section 9.8507(2) Parking and Loading Standards, MUDD Section 9.8506(2) Street Walls, MUDD Section 9.8506(2)(b) Screening, among other provisions.)*

5. To allow surface parking for recreation uses and community events with or without accompanied buildings for recreational, community, or other similar uses such as greenways, parks and outdoor recreational facilities.

**CDOT Comment:** The petitioner should revise conditional note (II.a.5) to clarify that off-street surface parking should not be permitted, and that on-street surface parking is permitted. Off-street surface parking may discourage walkability and TDM.

6. Subject to the limitations set forth below, to allow accessory drive-thru windows in accordance with the following standards: *(See Section 9.8504 Accessory Uses.):*

i. One (1) restaurant with a drive-thru window facility use shall be permitted in Development Area C2, and other drive-thru windows shall be permitted on the Site as accessory to a grocery store, dry cleaner, financial institution, limited service restaurant and/or similar uses, provided that except with respect to such uses located within Development Area C2, such drive-thru window facilities uses shall not be located between the building and the primary public street. Drive-thru lanes and one bail out lane are permitted between the building and other streets with screening achieved through a combination of low landscape solid walls ranging from 36 to 42 inches in height articulated no less than every 20 feet and landscaping.

ii. Multilane drive-thrus shall not face the primary or secondary street unless canopied and with an articulated building edge. When multiple drive-thru lanes are provided, any canopies over them shall be designed so that they are integrated with the overall architectural design of the primary buildings and appear to be an extension of the primary building mass, cornice and/or roof type with similar architectural design (provided material deviations are permitted if complementary in design).



- iii. No more than two (2) uses with accessory drive-thru windows are permitted within Development Area C2 and the uses with accessory drive-thru windows may not be located adjacent to each other on the same block unless they share central parking facilities.

**CDOT Comment:** The petitioner should clarify conditional notes (II.a.6.i) and (II.a.6.iii) to limit Development Area C2 to three drive-thru uses and to not permit drive-thru windows elsewhere on the Site. Drive-thru windows should only be permitted within Development Area C2.

7. To allow certain deviations from MUDD standards with respect to up to two (2) large format uses within Development Area C2 for non-office commercial uses, and as to all Development Areas except for Development Area A for indoor recreation uses (unrelated to civic uses) each of greater than 40,000 square feet of gross floor area, per the following: *(See MUDD Section 9.8506.(2)(a) Street Walls; and MUDD 9.8506.(2)(b) Screening of the Ordinance among other provisions.)*

- i. Side and rear facades facing limited access and secondary streets can utilize landscaping with an installed height of ½ the height of the first story of and plant grouping gaps no larger than 20 feet to address blank walls.

- ii. Parking fields will be minimized to no more than 2 full bays of parking between the building and the secondary street and Four Lane Avenue/Boulevard, and larger parking areas may be provided to the side or rear of the building. Deviations from this standard may be allowed with enhanced pedestrian connections through parking areas.

- iii. A Primary Pedestrian Entrance will be located facing the Primary Street or located on a street facing corner. Only one primary pedestrian entrance is required for the building (not one for each street)

8. To allow height of buildings to exceed the 120 foot height limit of MUDD in the amounts and manner described on Sheet RZ-4.0. **[NOTE TO STAFF: see separate rationale emailed to staff for our requested heights]**

9. To not require doorways to be recessed into the face of buildings when the abutting sidewalk width is greater than ten (10) feet. An eight (8) foot sidewalk clear zone shall be maintained *(See MUDD Section 9.8506.(2)(h) Building Entrances of the Ordinance among other provisions.)*

10. To allow required long term bike, scooter and similar parking spaces for the uses to be located within the parking decks and between buildings and streets constructed within the Site. *(See Section 9.8507.(7) Bicycle Parking of the Ordinance among other provisions.)*

11. [To allow buildings to use limited instances (as defined below) of window like openings with non-clear glazing to help break up building facades and meet blank wall requirements within Development Areas B, C1 and C2, and along Limited Access Road frontages (as defined in Section VI.c. below) in all Development Areas. The intent of this provision is to allow wall treatments other than windows with clear glass to be used to meet the fenestration standards in instances (“Limited Instances”) when the use or uses located within the building are for areas related to storage rooms, bathrooms, mechanical electrical and plumbing equipment areas and alike and are not related to active retail/EDEE customer

floor areas or active office areas. *(See Section 9.8506(2)(a) Street Walls of the Ordinance among other provisions.)*] **NOTE TO STAFF: this is appropriate and reflects built environment**

12. **NOTE TO STAFF: We are still looking at the new sign ordinance:** [To allow each office building on the Site to have one ground mounted detached sign, each with up to 50 square feet of sign area and up to seven (7) feet in height. *(See Section 9.8506.(2)(c) Signs of the Ordinance among other provisions.)*]

13. [To allow detached ground mounted identification signs for each building provided that (i) these detached identification signs shall not exceed five (5) feet in height nor greater than 36 square feet of sign area and (ii) this Optional Provision exception may not be used in combination with Optional Provision 11. above. *(See Section 9.8506.(2)(c) Signs of the Ordinance among other provisions.)*]

14. [To allow wall signs to have up to 200 square feet of sign surface area per walls or 10% of the wall area to which they are attached, whichever is less. The sign area of the wall signs may be increased by 10% if individual letters are used. *(See Section 9.8506.(2)(c) Signs of the Ordinance among other provisions.)*]

15. [To allow temporary signs and/or banners, for a period not to exceed six (6) months, when located along public or private streets with up to 150 square feet of sign face area and with a maximum height of seven (7) feet. *(See Section 9.8506.(2)(c) Signs of the Ordinance among other provisions.)*]

16. [To allow any of the detached signs allowed by the Ordinance or these Optional Provisions to be placed within the setback when building and/or parking setback is a minimum of 35' provided that the sign shall be a minimum 5' from the back of sidewalk. *(See Section 9.8506.(2)(c) Signs of the Ordinance among other provisions.)*]

17. [To allow projecting and blade signs and to allow such signs to encroach up to six (6) feet (2 feet above Ordinance) into public street setbacks and to project up to eight (8) feet from a building wall (4 feet above Ordinance).]

18. [To allow use of LED, dynamic video images or changeable copy signage, digital signage, art light projections and public art related signage; provided, however, such signs shall be limited, in the aggregate of all such signs, to 800 square feet of sign area per Development Area in the East Areas and 800 square feet of sign area for the West Area, and art light projections shall be limited, in the aggregate of all such projections, to 800 square feet of projection area per Development Area in the East Areas and 800 square feet of projection area for the West Area; in being understood, however, that: (i) signage associated with amphitheater facility and other performance venues described herein and in sub-section 21 below and signage that uses LED technology as a light source without the other projections or signage described above shall be excluded from the size limitations, and (ii) the size limitations described above may be increased upon the approval of the Planning Director, or designee. *[Above provisions deviate from certain signage standards of MUDD.]*

19. [To allow public art installations and displays to be installed on a permanent or temporary basis within the setbacks and yard requirements of the Ordinance subject to site distance clearance and other public safety based regulations; it is understood that public art

installations and displays will not count towards any signage requirements or restrictions under the Ordinance or herein.]

20. [To allow a variety of signs to be installed in connection with the amphitheater or other entertainment venues on the Rezoning Site, which shall include directional signage, LED, dynamic video images or changeable copy signage, digital signage, art light projects and public art related signage and these signs shall not count toward the aggregate size limitations set forth above or in the Ordinance.]

21. As an alternative or supplement to the signage related Optional Provisions set for the above, Petitioner may set forth a master signage package for the Rezoning Site that provides for flexibility appropriate to a mixed use integrated development of the kind contemplated by this Rezoning as approved by the Planning Director administratively.

b. The Optional Provisions regarding signs are additions/modifications to the standards for signs in the MUDD district and are to be used with the remainder of MUDD standards for signs not modified by these optional provisions.

### **III. Permitted Uses, Development Level Limitations, Transfer & Conversion Rights:**

a. **Permitted Uses Generally.** The Rezoning Site may contain and may be developed with uses permitted by right and under prescribed conditions in the MUDD-O zoning district together with accessory uses as allowed in the MUDD-O zoning district, in accordance with the Optional Provisions set forth above but except as expressly limited by the provisions of Sections III.b. and c. below.

b. **Prohibited Uses.** No gas/convenience store uses will be allowed on the Rezoning Site and no more than one (1) fast food restaurant with drive-thru window facility will be allowed on the Rezoning Site, which, if developed, would be located within Development Area C2 (in each such event this use with drive-thru facility will adhere to the design standards set forth in Section III.a. above).

c. **Development Levels for Transportation Purposes for Phase I & Phase II Development.** Development levels for permitted uses are set forth in *Table III.c.* below for the purposes of regulating traffic/transportation related aspects that may result from New Development or Existing Built Development Expansions taking place on the Rezoning Site and as more particularly set forth in Section V. below.

It is understood that Existing Built Development containing uses as allowed under this Section III currently exist on the Site. Accordingly, except as relates to the conversion rights set forth below, such Existing Built Development is not considered for transportation analysis purposes since it is already built and in place per earlier entitlement and is allowed under the MUDD-O rezoning contemplated herein. Furthermore, New Development and/or Existing Built Development Expansion that replaces in whole or part Existing Built Development will not be deemed to increase the development levels referenced in this Rezoning Plan, including without limitation Table III.c. below, as to the amount of the New Development and/or Existing Built Development Expansion that merely replaces Existing Built Development; it being understood that such offsets against Existing Built Development upon replacement will use the same ratios of square footage, units and rooms set forth below in Sections III. e. f. and g. below regarding conversion of uses.

**[NOTE TO STAFF: as discussed before, we suggest you reconsider the request that we delete these examples which we think make clear what is taking place; this is common in complicated arrangements like this and we think the value add is well-worth the space on page]**

*By way an examples only: (i) in the event that a building of 150,000 square feet of gross floor area of office uses in existence as of the date of approval of this Rezoning (hence constituting Existing Built Development) is demolished in its entirety and is replaced with a new building consisting of 200,000 square feet of gross floor area of office uses and 200 multi-family units (i.e. New Development), only 50,000 square feet of office uses and 200 multi-family units shall be accounted for as New Development for the purposes of this Section III (including Table III.c. below) and the transportation related analysis set forth in Section V; (ii) in the event a building of 100,000 square feet of gross floor area of office uses in existence as of the date of approval of this Rezoning (hence constituting Existing Built Development) is demolished in its entirety and is replaced with 200 multi-family units, only 100 multi-family units of the New Development shall be accounted for as New Development for the purposes of this Section III (including Table III.c. below) and the transportation analysis set forth in Section V since 100,000 square feet of gross floor area of the Existing Built Development office uses are offset against the New Development at a ratio of 1,000 square feet per multi-family unit; (iii) in the event a building of 120,000 square feet of gross floor area of office uses is redeveloped as Existing Built Development Expansion so as to result in at total of 125,000 square feet of gross floor area with 110,000 square feet of gross floor area of office uses and 15,000 square feet of gross floor area of retail/EDEE uses, then only 5,000 square feet of such retail/EDEE uses shall be accounted for as New Development for the purposes of this Section III (including Table III.c. below) and the transportation analysis set forth in Section V since 120,000 square feet of office uses of Existing Built Development are offset against 110,000 of office uses and 10,000 square feet of retail/EDEE uses; and (iv) in the event that a building of 100,000 square feet of office uses in existence as of the date of approval of the Rezoning (i.e. constituting Existing Built Development) is demolished, the amount of New Development available for the purposes of this Section III (including Table III.c) and the transportation analysis of Section V shall be increased by amount equivalent for commercial uses, residential uses and hotel uses as set out in the applicable conversions of Sections III. e, f and g below.*

When referencing development levels for New Development and Existing Built Development Expansion in *Table III.c.* below, it is understood that those permitted uses not falling within the category of uses listed below shall be accounted for as “Other Uses” as set forth in *Table III.c.*

Furthermore, ground floor retail/EDEE and Personal Services uses integrated into a mixed use, multi-story office building with the Rezoning Site shall not be included in the maximum New Development level or Existing Built Development Expansion for retail/EDEE or Personal Services uses, up to a maximum amount of gross floor area of such uses so excluded of 60,000 square feet in the aggregate or 5,000 s.f. of gross floor area per space for the references uses.

**[NOTE TO STAFF: as discussed before and as done in other large mixed use projects with large office based uses, it is appropriate to allow accessory use type commercial uses within office building because these are not the kind that drive traffic that is allowed under O-1].**

It is further acknowledged that the actual development levels allowed may be increased or decreased above or below the development levels reflected in *Table III.c.* below in accordance with the conversion rights set forth in Sections III.e.-III.f. below up to the maximum conversion amounts set forth in such sections. Conversions may include each of Existing Built Development, Existing

Built Development Expansion and New Development, but as described above only the net increase in overall development levels beyond the Existing Built Development levels shall count toward limits on the development levels set forth herein.

<b>Table III c.</b>		
<b>Proposed New Development and Existing Built Development Expansion Levels (Combined)*; NOTE [ ] items reflects levels for only Phase I or II as applicable</b>		
	<b>Total Thru Phase I</b>	<b>Total Thru Phase II</b>
<b>New Non-Residential Uses *</b>	Total	Total
<b>New Office Uses</b> s.f. = square feet of gross floor area	0	400,000 s.f. [400,000 s.f.]
<b>New Non-Office Commercial Uses</b> (Retail, EDEE & Personal Services)	300,000 s.f. [300,000 s.f.]	300,000 s.f.
<b>New Hospitality/Hotel Uses</b>	200 rooms	200 rooms
<b>Other Misc. Uses **</b>	N/A **	N/A **
<b>Total</b>	300,000 s.f.	700,000 s.f.

	<b>Total Thru Phase I</b>	<b>Total Thru Phase II</b>
<b>Residential Uses *</b>	Total	Total
<b>Multi-Family Units</b>	1,000 units [1,000 units]	2,000 units [1,000 units]
<b>Single-Family ***</b> <b>Attached/Detached Units</b>		300 units [300 units]
<b>Total Units</b>		2,300 units

\* Subject to conversion rights per Section III of Development Standards

\*\* See provisions of Section I.I.15 regarding development of certain other permitted MUDD uses not falling within the categories set forth above for uses such as civic, recreational, religious institution, congregate care & other similar uses. See also the above provision of this Section III.c. regarding exclusion of certain vertical integrated non-office commercial uses.

\*\*\* Single-family attached/detached units may be converted to multi-family units on a one-to-one ratio basis.

**CDOT Comment:** The petitioner should revise conditional note (III.c) to correct the reference to Section (I.I.15), per footnote \*\* of Table III c; please correct all references to the appropriate section. The petitioner should clarify the exclusion of certain vertical integrated non-office commercial uses (ground floor retail/EDEE and Personal Services) for Table III c, as this Site will function as an Activity Center, including traffic generated on weekends. Development level conversions will be permitted by CDOT, on the condition that the converted land use trip generation remains “trip neutral” to the original development level that the revised use is converted from. The petitioner should revise Table III c to include the total units within the Phase I column. Table III c. does not specify the square footage of new development levels for Other Misc. Uses, and the petitioner should clarify to CDOT staff the extent of these uses, since developable square footage is not accounted for within this rezoning petition or the TIS.

**d. Phase III Development.** Reference is made to Table III.d. below that sets forth aspirational development levels beyond Phase I Development and Phase II Development (the “Phase III Development”). It is expressly understood that no permits nor certificates of occupancy may be issued with respect to the Phase III Development without BOTH (i) the occurrence of a major transportation improvement event or events and/or a transportation technological transformation event or events that significantly alter the transportation/congestion management environment for the Rezoning Site, each as determined by CDOT (each a “Major Transportation Event”), such Major Transportation Events could include, by way of illustration only, delivery to the Rezoning Site of light rail transit service, true bus rapid transit service (but beyond express bus service provided by the planned I-485 managed lanes project) or some other major widening, flyover, or I-485 interchange transportation improvement, again as reasonably determined by CDOT. And in each such instance of a Major Transportation Event additional transportation analysis reasonably acceptable to CDOT and NCDOT, as applicable, shall be provided to demonstrate verification of the benefit of each such Major Transportation Event(s) and suitable transportation adequacy levels associated with the Phase III Development. **[Note to staff: Reference to a Major Transportation Event is intended to focus efforts and significant improvements and make clear that Phase III is more aspirational in nature. We need to have the right to utilize all development entitlements in Phase I and II whether or not we are working in Phase III]**

Table III.d.	
<b>New Development &amp; Existing Development Expansion Levels (combined)* - Phase III</b> <b>(NOTE: subject to full transportation study &amp; triggering events such as transit, major regional road improvements and/or major transportation innovations) [sf references square feet of gross floor area]</b>	
<b>Non-Residential Uses</b>	<b>Phase III</b>
<b>Office Uses</b>	800,000 s.f.
<b>Non-Office Commercial Uses (Retail, EDEE &amp; Personal Services)</b>	50,000 s.f.
<b>Hospitality/Hotel Uses</b>	220 rooms
<b>Other Misc. Uses **</b>	N/A **

<b>Residential Uses [units references dwelling units]</b>	<b>Phase III</b>
<b>Multi-Family Units</b>	1,500 units
<b>Single-Family Attached/Detached Units</b>	
<b>Total Units</b>	1,500 units

\* Subject to conversion /transfer rights per Section III of Development Standards

\*\* See provisions of Section I.I.15 regarding development of certain other permitted MUDD uses not falling within the categories above but including uses such as civic, recreational, religious institution, congregate care & other similar uses. See also above provisions of this Section III.c. regarding exclusion of certain vertical integrated non-office commercial uses. **[NOTE TO STAFF: see discussion/response above]**

**CDOT Comment:** The petitioner should revise the site plan and conditional note (III.d) to revise the phrase “true bus rapid transit” to “funded and operational bus rapid transit,” unless commented otherwise by CATS. Section (I.I.15) is referenced incorrectly within footnote \*\*\* of Table III d, please update with a corrected reference. Please clarify Section (III.d) and Section (I.e.2) notes regarding development west of Hwy 521 within Phases I and II. All Phase III references to a “Major Transportation Event” should be removed, since Phase III entitlements are part of this rezoning petition, so the entitlements themselves are not “aspirational.” Within the context of this conditional note as currently written, light rail, bus rapid transit, NCDOT interchange/corridor improvements, TDM, and any transformative transportation technological advances would be considered within the future Phase III TIS. A conditional note should be added to require a Phase III TIS to be completed and approved before Phase III development may occur, so CDOT and NCDOT may analyze the transportation impact of the requested Phase III development levels. Please update RZ-5.0 to depict that Phase III may occur on both sides of Hwy 521.

**e. [Limitations in Development Levels for Certain Site Locations.** Except in connection with adjustments permitted in connection with approved Transportation Analysis set forth in Section V., New Development and/or Existing Development Expansion of no more than 300 residential dwelling units and 20,000 square feet of gross floor area of Non-office Commercial Uses shall be developed on the portion of the Site located west of Hwy. 521 as part of Phase I and Phase II development (provided; however, development allowed per Section I.I.15 and Section III.c. shall not be included in such limitations). Furthermore, no more than 30% of the development levels for the uses listed in *Table III.c.* for the Phase I development may be located within the Phase II development areas depicted as Development Areas C1 and B.

**CDOT Comment:** The petitioner should revise conditional note (III.e) to require for the TIS to be updated when development is proposed west of Hwy 521, as previously commented within Section (I.e.2). Section I.I.15 is incorrectly referenced. The internal capture percentage will also be affected when relocating development west of Hwy 521, since the approved TIS scope’s internal capture percentage did not account for development occurring west of Hwy 521. The petitioner should revise the note describing that Phase I development may occur within Phase II development, since the Phase boundaries included within RZ-5.0 do not indicate an overlap in phasing.

**f. Process & Record-keeping for Development Levels.** Given the master planned nature of the development contemplated for the Rezoning Site, Petitioner, or assigns, and owners of portions of the Rezoning Site, will follow a process for recording entitlement taking place in accordance with the Rezoning Plan as part of a written summary table and report (the “Entitlement Summary”), a sample copy of the same being set forth as a Table/Chart on Sheet RZ-4.0, filed in connection with urban review and similar site plan submittals for specific development taking place within Development Areas and the Rezoning Site as a whole. Such Entitlement Summary shall also reflect adjustments to applicable development levels allowed based on approved Site Plan Amendments and approved Administrative Site Plan Amendments. **[NOTE TO STAFF: Entitlement Summary is expected to response to your requested items]**

The Petitioner shall provide written notice to the Planning Director, or designee, of one to two individuals who are designated and charged for keeping the Entitlement Summary up to date on a timely basis for the Site (the “Recording Parties” and each a “Recording Party”). Errors resulting from failure of a Recording Party to keep the Entitlement Summary up to date accurately on a timely basis shall be remedied promptly with reasonable cooperation of the Planning Department, but the Planning Department shall not be responsible for updating the Entitlement Summary. Any failure of a Recording Party to keep the Entitlement Summary up to date may adversely affect



development levels and rights as well as the timing when at odds with the actual approved entitlements. As indicated above, the Entitlement Summary shall be updated as development receives MUDD-O approvals, subdivision approvals, planned multi-family approvals and building permits, as applicable.

**CDOT Comment:** The petitioner should revise the site plan and conditional note (III.f) to provide an updated Entitlement Summary annually or after each CO is attained, to track the development levels and identify density triggers for each transportation improvement phase, as required within the approved TIS. A new report should update the originally entitled, as-built, and remaining development level square footage, as adjusted by the latest project's attained CO. An Entitlement Summary table is not included within sheet RZ-4.0A. or RZ-4.0B. Please provide the template for this table, since the tables provided within RZ-4.0B only include transfer, land use conversions, and proposed new development and existing building development expansion level tables. Written notice should also be provided to the CDOT director, so CDOT may review development levels when assessing the TIS phases of the required. transportation improvements.

**g. Conversion of Commercial Uses.** Retail, EDEE, and Personal Services uses (“non-office commercial uses”), whether related to Existing Built Development Levels or Existing Built Development Expansion/New Development Levels set forth in *Table III.c.* above, may exceed the applicable development level specifications set forth by up to 75,000 square feet of gross floor area and office commercial uses may exceed the applicable development level specifications by up to 75,000 square feet of gross floor area by converting non-office commercial uses into office commercial uses and vice versa at a ratio of 1.0 square foot of gross floor area of such uses so converted. In such event the total gross floor area of commercial uses (office and non-office) allowed for the applicable Phase of Development shall not exceed the total specified amount as a result of such conversions, rather only the mix of such uses shall change but not by greater than the limits set forth above; the conversions described above are in addition to other conversions set forth herein, and the conversions properly exercised and those remaining shall be set forth as part of the Conversions Levels on the Entitlement Summary and related Chart described on Sheet RZ-4.0.

**h. Conversion of Hotel Rooms & Residential Units.** Additional hotel rooms beyond the Existing Built Development Levels, or the Existing Built Development Expansion/New Development Levels set forth in *Table III.c.* above may be developed within the Rezoning Site by converting residential dwelling units into hotel rooms at the rate of one (1) residential unit so converted into one (1) hotel room, up to a maximum of 200 new hotel rooms created in the aggregate by such conversions; and additional residential dwelling units may be developed by converting hotel rooms, whether set forth as Existing Built Development Levels or Existing Built Development Expansion/New Development Levels set forth in *Table III.c.* above, into residential dwelling units at the rate of one (1) hotel room so converted into one (1) residential dwelling unit up to a maximum of 200 residential dwelling units created by such conversion in the aggregate. The conversions described above are in addition to other conversions set forth herein, and the conversions properly exercised and those remaining shall be set forth as part of the Transfers/Conversions Levels on the Entitlement Summary and related Chart described on Sheet RZ-4.0.

**i. Conversion of Hotel Rooms/Residential Units & Commercial Uses.** Additional hotel rooms and/or residential dwelling units may be developed within the Rezoning Site by converting commercial uses (e.g. office, retail, EDEE and Personal Services uses), whether related to Existing Built Development Levels, or to Existing Built Development Expansion/New Development Levels set forth in *Table III.c.* above, into hotel rooms and/or residential dwelling units at the rate of 500



square feet of gross floor area of such commercial uses so converted for one (1) hotel room added or for one (1) residential dwelling unit added, up to a maximum of 300 hotel rooms or residential dwelling units created in the aggregate by such conversion, and additional commercial uses may be developed by converting hotel rooms and/or residential dwelling units into commercial uses at the rate of one (1) hotel room or one residential dwelling unit so converted into 500 square feet of gross floor area of commercial uses so created up to a maximum of 200 hotel rooms and/or residential dwelling units so converted in the aggregate. The conversions described above are in addition to other conversions set forth herein, and the conversions properly exercised and those remaining shall be set forth as part of the Transfers/Conversions Levels on the Entitlement Summary and related Chart described on Sheet RZ-4.0. **[NOTE TO STAFF: to discuss comments]**

- i. Written Notices & Records for Conversions & Transfers; Administrative Amendments.** Prior to any conversions of entitlement pursuant to subsections g., h. and i. above, the Petitioner or owner of the portion of the Development Areas involved in the conversion or transfer under notice shall provide to the Planning Department a written notice for such conversion and transfer as well as an updated Entitlement Summary in accordance with subsection b. above, including the applicable Conversions Levels. Furthermore, the results of such conversions and transfers shall be evidenced by an update of the applicable tracking summary for the applicable area involved as described above in subsection e.

**CDOT Comment:** The petitioner should revise these conditional notes to state that all land use conversions must remain “trip neutral during peak hours.” A clarification should be made to indicate that these numerical development level conversions are provided for example only, as the development level conversions will be controlled by equivalent generated trips.

#### **IV. Commitments regarding Infrastructure & Civic/Community Uses & Services**

**[NOTE TO STAFF:** Petitioner has been urged by City Econ. Development leadership to place all Civic Commitments in a separate Development Agreement which will contain certain funding aspects; they have indicated that the River District approach is less than desirable – so we propose to have the following provision set forth in lieu of the full provisions below, which we would propose to delete:

**CDOT Comment:** The petitioner should refer to the TDM conditional note comment below, within Section IV.e. Please include a conditional note to indicate that the petitioner and future property owners, as the Site may be subdivided, will comply with the terms and conditions as agreed upon within the Development Agreement “DA.”

Petitioner, the City of Charlotte and Mecklenburg County have entered into a public private partnership for the funding of certain transportation improvements and funding of a portion of the costs of certain improvements to the Mecklenburg County Greenway, and in connection with such public/private partnership Petitioner has agreed to undertaken certain civic/community uses, services and improvements generally described below. It is understood that the documentation related to the referenced public private partnership shall control over the following general description of such civic/community uses, services and improvements.

*TO INSERT GENERAL DESCRIPTIONS OF THE ITEMS RELATED TO: (i) continuation of park/open space, (ii) ETC.]*

In addition to the transportation provisions set forth below in Section V below, the following provisions of this Section IV relate to certain civic/community uses, services and improvements. It is contemplated that the following provisions and possible funding aspects will be documented in a separate Development Agreement instrument.

**a. Parks & Recreation Greenway Dedications & Improvements.** The Petitioner, or assigns, provides the following commitments in connection with such parks, recreation facilities, open space, trails and connection to the Mecklenburg County greenway system:

**1. Continuation of Park/Open Space Areas.** The Petitioner, or assigns, will provide for and maintain the system of privately owned but accessible to the public pocket parks and active green space within the Rezoning Site as generally depicted on Sheet RZ-8.0, subject to adjustments as long as a minimum of 100 acres of the Rezoning Site remains Open Space and a minimum of thirty-five percent (35%) of the Open Space thereof remains Active Open Space. Petitioner agrees to provide pedestrian connections linking the park/open space areas substantially in the manner generally depicted on Sheet RZ-8.0 but as the same may be adjusted as set forth. Petitioner, or assigns, shall bear the cost of maintaining the above-described areas. It is understood that many of the above described areas exist today (but may be improved) and others will be installed or upgraded as development occurs within the Rezoning Site, subject to adjustments as described above and subject to the greenway connection timing referenced in item 2 below.

**2. New Connection to Greenway.** Sheet RZ-8.0 sets forth the proposed location of the area on the Rezoning Site that will be connected to the Mecklenburg County greenway system. This connection to the greenway system, including the installation of the associated bridge connection, will be installed by the Petitioner within three (3) years of approval of the Rezoning, subject to circumstances beyond the reasonable control of the Petitioner, and subject to delays in such delivery timeline that may take place in accordance with the public/private partnership documentation described above. Petitioner, or assigns, may retain naming rights to the bridge/greenway connection as part of its installation. Petitioner, or assigns, will provide for trails and pedestrian connections in locations generally depicted on the Rezoning Plan in a manner reasonably consistent with development plans for the Rezoning Site and as development occurs on the Rezoning Site, and shall provide for the greenway connection described above in a timely manner. The cost of installation of greenway trails and improvements off-site (other than as described above) shall be borne by Park & Rec or others. Once installed, Petitioner, or assigns, shall maintain the trails and pedestrian connections on the Rezoning Site, and the greenway connection off of the Rezoning Site shall be maintained by Park & Rec or others. Petitioner shall permit parking for greenway connection access on weekends and holidays on existing nearby parking spaces subject to customary provisions for security and safety.]

**b. Public Gathering & Amphitheater Improvements.** As part of the vision for Ballantyne Reimagined as a community and cultural gathering hub for south Charlotte, the Petitioner, or assigns, commits to install the amphitheater as generally depicted on Sheet RZ-8.0 within six (6) years of approval of the Rezoning, subject to circumstances beyond the reasonable control of the Petitioner, and subject to delays in such delivery timeline that may take place in accordance with the public/private partnership documentation described above.

**CDOT Comment:** The petitioner should revise the site plan and conditional note (IV.b) to commit to developing a Special Event Traffic Management Plan for the proposed amphitheater events, prior to permitting approval of the amphitheater. The plan should take into consideration weekday and weekend peak times to reduce overall delays on internal and external public streets. This plan should be submitted to CDOT and CMPD for review and approval, which may be completed during the permitting review process.

**c. Affordable & Workforce Housing.** Petitioner, or assigns, agrees to the following commitments:

**1. Phase I Affordable/Workforce Housing Commitment.**

**[NOTE TO STAFF: Petitioner has received Staff comments and is reviewing in light of all of the other commitments being made but not changes are made to the following. We note that the 96 units was in error because 200 of the 1,200 Phase I Units are actually to be developed at 200 hotel rooms]**

(a) 80 workforce housing residential rental units (the “Phase I Housing Commitment”) will be provided prior to the issuance of certificates of occupancy for greater than 1,000 new residential dwelling units as part of the new residential development allowed in the Phase I Development (equating to 8% of such residential development in Phase I), subject to and in accordance with the provisions contained in this sub-section c. The Phase I Housing Commitment will be subject to and based on approval by applicable governmental entities of appropriate tax credit housing grants pursuant to North Carolina Housing Finance Agency, other possible public funding support in the form of tax increment grants and/or other such workforce housing funding vehicles (“Tax Credit/Housing Support Vehicles”) associated with such commitment.

(b) The Phase I Housing Commitment will provide that the 80 designated workforce/affordable housing rental units maintain monthly rents that are income restricted for households earning 80% or less of the area median income, for a period of not less than 30 years after initial occupancy, or some other metric mutually acceptable to the Petitioner, or assigns, and the City of Charlotte Neighborhood Development Department.

(c) Petitioner, or assigns, including without limitation experienced providers of workforce/affordable housing, will use diligent good faith efforts to comply with the Phase I Housing Commitment (including approval of an appropriate Tax Credit/ Housing Support Vehicle(s) prior to the earlier of: (i) issuance of certificates of occupancy for greater than 1,000 new residential dwelling units as part of the Phase I Development and (ii) five (5) years of approval of the Rezoning; if after exercise of such good faith efforts, Petitioner, or assigns, is unable to so comply, Petitioner shall set aside for a period of five (5) years up to 2 acres of land within the Rezoning Site as may be needed to support future development of the Phase I Housing Commitment; and if after such 5-year period and after further good faith efforts to so provide for the Phase I Housing Commitment, the Petitioner, or assigns, is unable to do so, the set aside land shall be free for development without regard to the Phase I Housing Commitment.

## **2. Phase II Affordable/Workforce Housing.**

(a) 80 workforce housing residential rental units (the “Phase II Housing Commitment”) will be provided prior to the issuance of certificates of occupancy for greater than 2,000 new residential dwelling units provided in both Phase I and Phase II Development in the aggregate as part of the new residential development allowed in the Phase II Development (equating to 8% of such residential development in Phase II), subject to and in accordance with the provisions contained in this sub-section c. The Phase I Housing Commitment will be subject to and based on approval by applicable governmental entities of Tax Credit/Housing Support Vehicles associated with such commitment.

(b) The Phase II Housing Commitment will provide that the 80 designated workforce/affordable housing rental units maintain monthly rents that are income restricted for households earning 80% or less of the area median income, for a period of not less than 30 years after initial occupancy of each unit, or some other metric mutually acceptable to the Petitioner, or assigns, and the City of Charlotte Neighborhood Development Department.

(c) Petitioner, or assigns, including without limitation experienced providers of workforce/affordable housing, will use diligent good faith efforts to comply with the Phase II Housing Commitment (including approval of an appropriate Tax Credit/ Housing Support Vehicle(s)) prior to the earlier of: (i) issuance of certificates of occupancy for greater than 2,000 new residential dwelling units as part of the Phase I Development and Phase II Development and (ii) ten (10) years of approval of the Rezoning subject to the extension of such ten-year period based upon extension set forth in connection with the Phase I Housing Commitment described above; if after exercise of such good faith efforts, Petitioner, or assigns, is unable to so comply, Petitioner shall set aside for a period of five (5) years aft the passage of such period up to 2 acres of land within the Rezoning Site as may be needed to support future development of the Phase II Housing Commitment; and if after such 5-year period and after further good faith efforts to so provide for the Phase II Housing Commitment, the Petitioner, or assigns, is unable to do so, the set aside land shall be free for development without regard to the Phase II Housing Commitment.

**3. Phase III Development Affordable/Workforce Housing.** Reference is made to Section V regarding the conditional allowance of Phase III Development upon the occurrence of a Major Transportation Event (including, for instance, as defined in Section V the delivery of light rail transit service to the Rezoning Site and additional transportation analysis reasonably acceptable to CDOT and/or NCDOT providing written verification of the transportation mitigation benefits of such Major Transportation Event). While the additional Phase III Development may not be built without the occurrence of such a Major Transportation Event and acceptable analysis of the transportation benefits, Petitioner, or assigns, will work in good faith with City of Charlotte Neighborhood Development Department to provide additional commitments to workforce housing at levels up to 10% of the total number of Phase III Development residential units and otherwise on the same basis as described above for Phase I Development and Phase II Development.

**d. CATS Infrastructure & Transit Services.** As part of the multi-model transportation mobility plans for the Rezoning Site, Petitioner, or assigns, shall coordinate with CATS on the following items such as bus stops and where appropriate pads for bus stop structures.

Furthermore, Petitioner shall continue to coordinate with CATS in connection with consideration of extension of light rail transit service (“LRT”) to Ballantyne. These coordination efforts include the identification of a possible right of way for the delivery of LRT and up to three (3) LRT stations, the manner generally depicted on Sheet RZ-12.0. Pursuant to the above-referenced public/private partnership documentation, certain milestones shall be set forth for the continued reservation of the above-referenced possible right of way for LRT, and such documentation shall govern these LRT support commitments.

**e. Transportation Demand Management Menu.** As part of Petitioner’s embrace of a multi-modal transportation vision for the development, Petitioner has worked in good faith with CDOT in connection with development of a comprehensive menu of transportation demand management (“TDM”) strategies. In addition to the multi-modal pedestrian friendly project design commitments set forth in the Rezoning Plan, Petitioner, or assigns, will use good faith efforts to follow the TDM menu, but it is understood that the TDM shall not impact the implementation of development levels, permitting, or overall zoning compliance.

**CDOT Comment:** The petitioner should revise conditional note (IV.e) to the following: **“Transportation Demand Management Plan** - The Petitioner commits to implementing a Transportation Demand Management (“TDM”) plan, in collaboration with CDOT and other public agencies and/or representatives; including but not limited to, CATS, NCDOT, Economic Development, and Planning. The TDM Plan shall be included as a future exhibit within the Development Agreement, as referred to within section IV. Commitments regarding Infrastructure & Civic/Community Uses & Services.” This conditional note should also be contained within page 4, titled *Transportation Demand Management (TDM) and Wayfinding Plan*, of the TIS.

**f. Job Training Support.** Petitioner, or assigns, commits to work in good faith with representatives of the City Neighborhood and Business Services and the leadership for the P.I.E.C.E. program or similar job training program to consider appropriate goals associated with good faith commitments for participation in the P.I.E.C.E. job training related program or other similar job training program in connection with certain identified public infrastructure construction related work.

**[NOTE TO STAFF: we don’t understand why this is suggested to be deleted. We have been told by Econ. Dev. dept. that in fact this provision is important if in fact some of these commitments are retained in the Rezoning Plan]**

**g. Administrative Amendments regarding Commitments for Civic/Community Uses & Services.** It is acknowledged that given the master planned nature and long timeline of development for the Rezoning Site, changes in the various civic services/community uses described in subsections IV.a., b, c., d. and e. above, may take place over time or commitments regarding the same may be met on property beyond the Rezoning Site or by parties other than Petitioner, or assigns, with the approvals of the applicable governmental authorities authorized for such services/community uses. In such event, the Petitioner, or assigns, with the written approval by the applicable governmental authorities, may request an administrative amendment to the Rezoning Petition to address the changes associated with the civic services/community uses in question, and such administrative amendments may be undertaken administratively without a site plan amendment to the Rezoning Plan – in other words no public hearing nor other processes customarily required for a rezoning of Property shall be required.

## **V. Transportation/Roadway Improvements & Implementation.**

**a. Transportation Framework & General Provisions.** The following provisions of this Section V.a. set forth the overall methodology/framework for the roadway improvements to be installed in connection with development of the Rezoning Site as well as other general provisions governing the transportation components of the Rezoning Plan.

**1. Transportation Network.** Due to the master planned nature of the development of the Rezoning Site which will occur over many years, the applicable transportation network generally depicted on Sheet RZ-7.0A will be implemented over time and may adapt to the timing of development, availability of public and private funding and other factors. Sections V.b. and c. below set forth a description of the roadway improvements to be installed in connection with certain phases of development of the Rezoning Site, but the exact locations and alignments of the roadway improvements set forth on Sheet RZ-9.0 and described below could change, per the provisions of this Section V. The provisions of this Section V shall govern to the extent of a conflict between the graphic depictions of Sheet RZ-9.0 and the provisions of this Section V.

**2. Multiple Phases & Transportation Analysis; Adjustments/Sub-phases; Completion of Improvements Prior to Certificates of Occupancy.** The transportation improvements required for the Rezoning Site will be accomplished in multiple phases, including “Phase I Improvements”, “Phase II Improvements” and “Phase III Improvements,” as defined below (each being a “major phase”), or “sub-phases” of such major phases. The development levels for the major phases of the development are described in *Table III.c*. It is understood that upon installation of the Phase I Improvements (as set forth below) and the Phase II Improvements (as set forth below) the entire Phase I Development level as to the Phase I Improvements and the Phase II Development level as to the Phase II Improvements may be developed in accordance with the provisions herein. Adjustments, however, to the mix and amount of such development levels and the accompanying roadway improvements associated with development for such major phases or sub-phases may be permitted in accordance with the provisions of this Section V. Such adjustments and/or sub-phases shall be allowed administratively subject to the reasonable review and approval by CDOT (and/or as applicable NCDOT) of appropriate transportation analysis in the form of existing or future transportation impact studies or technical transportation memoranda (hereinafter “transportation analysis”), such approvals not to be unreasonably withheld or delayed to the extent that such transportation analysis is conducted in accordance with applicable standards/guidelines of CDOT and/or NCDOT, as the case may be. Such adjustments and/or sub-phases resulting from the reasonable approval of appropriate transportation analysis may result in more or fewer transportation improvements, in alternative improvements being deemed suitable to address transportation adequacy and/or in increases or decreases in the applicable levels of development. Approval by NCDOT as referenced herein shall only be applicable to the extent necessary per customary approval practice of NCDOT. All roadway improvements for each major phase, or sub-phase, are required to be substantially completed prior to the issuance of the first certificate of occupancy for development within each major phase, or each sub-phase, as applicable, that is approved by CDOT (or as applicable NCDOT) per appropriate transportation analysis, subject to the provisions below dealing with appropriate adjustments.

**3. Impact of Permitted Uses/Development Levels & Transportation Adequacy Assessments.** The levels of development associated with the Phase I Development, the Phase II Development and the Phase III Development, as well as sub-phases of such major phases, are intended to reflect limitations on allowed development levels tied to certain required roadway improvements; provided, however, such development levels and associated roadway improvements may be adjusted, at the request of Petitioner, or assigns, with reference to the varying traffic impact of such permitted uses based on appropriate transportation analysis approved by CDOT (and, as applicable, NCDOT). By way of illustration only, the amount of residential dwelling units allowed as part of the Phase I Development associated with the required implementation of the Phase I Improvements may be increased above the limits listed for Phase I Development residential uses provided that there is a reduction in other permitted development levels associated with Phase I Development so as to account for such increase.

**4. Completion of Improvements by Others.** The listing of required roadway improvements associated with Phase I Development in Section V.b. below, and Phase II Development in Section V.c. below are not intended to suggest that they must be completed by Petitioner; rather such roadway improvements, whether associated with a major phase or a sub-phase, may be completed by Petitioner, or assigns, or by others, such as governmental bodies by way of a public private partnerships, Community Investment Plan funding (e.g. CIP), direct investment by City or State or otherwise. Accordingly, references to “Petitioner,” or “Petitioner or assigns” in this Section V may include such other third parties, and a listing of required improvements needed to allow certain development to take place does not mean that the Petitioner is exclusively responsible for such improvements. The applicable requirements, however, must be satisfied prior to issuance of the applicable certificates of occupancy associated with such development regardless of which party is involved in such development or commits to make such improvements, unless adjusted in accordance with the provisions of this Section V.

**5. Communication; Record-Keeping/Tracking.** Petitioner, or assigns, and/or such other individual developers/owners, shall provide such communication and approvals related to the improvements to be done and completed as CDOT shall reasonably request so as to properly track the roadway improvements and associated development levels for record keeping purposes. CDOT, Planning Director, or designee, and Petitioner, its successors and assigns, may mutually agree on appropriate notice and record-keeping procedures in the future as part of an administrative amendment.

**6. CDOT/NCDOT Standards; Local Streets Per Subdivision Ordinance.** All of the roadway improvements contemplated by the Rezoning Plan, as may be adjusted from time to time as provided herein, will be subject to the standards and criteria of CDOT and/or NCDOT, as applicable, related to such roadway improvements within their respective road system authority.

**7. Thoroughfare Improvements.** Development along existing roadways having a “Thoroughfare” designation must be improved to applicable “Thoroughfare” standards along the frontage being developed; provided, however, if such roadways associated with the development are within an identified and budgeted community improvement project of the City or NCDOT (as applicable), Petitioner, or assigns, may elect to contribute the estimated cost of the applicable improvements toward funding of the approved community improvement project.

**8. Substantial Completion.** Reference to term “substantial completion” for certain improvements as set forth in the provisions of this Section V shall mean a determination by CDOT that the applicable roadway improvements are deemed “substantially complete” for the purpose of the issuance of certificates of occupancy for building(s) on the Rezoning Site in connection with development/improvements phasing. The Petitioner, or assigns, may be asked to post a letter of credit or a bond for any improvements not in place at the time of any such substantial completion to secure completion of the applicable improvements in instances where CDOT has deemed certain improvements as substantially complete.

**9. Alternative Improvements; Design Changes.** The Phase I Improvements, Phase II Improvements, and Phase III Improvements and other roadway improvements deemed necessary as described herein, are anticipated to take place over the long term development horizon contemplated by this Rezoning Plan. As a result, changes in circumstances or conditions (e.g. increased transit service and the like) may affect the ability or advisability of the construction of the roadway improvements. In addition, certain design changes or alternative roadway improvements may make sense under future circumstances. Accordingly, it is understood that the roadway improvements may be altered with alternate improvements, design changes or other adjustments upon approval by CDOT (and, as applicable, NCDOT). The above-referenced adjustments or design changes may be approved administratively upon CDOT’s approval and shall be documented in accordance with the process set forth in Section III.c. of these Development Standards.

**10. Right-of-Way Dedications for Areas within Rezoning Site.** Except as otherwise set forth in this paragraph, Petitioner, or assigns, agree to dedicate, without compensation, the applicable right-of-way for certain expressly identified public arterial streets located and situated within the Rezoning Site as generally depicted on Sheet RZ-7.0A, upon the earlier of (i) the commencement of construction of the applicable required roadway improvements being undertaken by Petitioner, or assigns, or (ii) the commencement of construction of required roadway improvements being undertaken by other parties such as the City.

**11. Right-of-way Availability.** It is understood that some of the public roadway improvements referenced in this Section V may not be possible without the acquisition of additional right of way. If after the exercise of diligent good faith efforts, as specified and administered by the City of Charlotte right-of-way acquisition process as administered by the City of Charlotte Engineering & Property Management Department, the Petitioner, or assigns (or third parties), are unable to acquire any land necessary to provide for any such additional right of way upon commercially reasonable terms and at market prices, then CDOT, the City of Charlotte Engineering Division or other applicable agency, department or governmental body may agree to proceed with acquisition of any such land. In such event, Petitioner, or assigns (or third parties), shall reimburse the applicable agency, department or governmental body for the cost of any such acquisition proceedings including compensation paid by the applicable agency, department or governmental body for any such land and the expenses of such proceedings.

Furthermore, in the event roadway improvements referenced in this Section V are delayed because of delays in the acquisition of additional right-of-way as contemplated herein, then the applicable responsible party may contact CDOT and the Planning Director, or designee, regarding an appropriate infrastructure mitigation phasing plan that appropriately matches the scale of the development proposed. Upon approval of such mitigation phasing plan,



CDOT, in its discretion, may inform applicable authorities that it is comfortable with allowing the issuance of certificates of occupancy for the applicable buildings in light of approved infrastructure mitigation phasing plan. If so, the Petitioner, or assigns (or third parties) shall seek to complete the applicable roadway improvements and may have to post a letter of credit/bond for any such improvements to secure completion of the applicable improvements.

It is understood that the above provisions are not to be construed as a limitation on the general rights of the City or State of North Carolina, in its discretion, to acquire or condemn right of way needed for installation of public streets, which, unless agreed otherwise, shall not require reimbursement by the Petitioner, or assigns.

**b. Description of Phase I and Phase II Roadway Improvements.** As part of the Phase I Development levels and the Phase II Development levels described in *Table III.c* above, the following Phase I Improvements and Phase II Improvements (derived from Traffic Impact Study prepared by Design Resource Group, last updated as of [REDACTED] (the “Phase I & II Traffic Impact Study”) will be constructed in accordance with the implementation provisions set forth in Section V.a. above, including those dealing with sub-phasing of such improvements and adjustments in permitted development levels/roadway improvements based on differing transportation impact for such permitted uses; it being understood that upon completion of the Phase I Improvements and Phase II Improvements described below all of the Phase I Development and the Phase II Development, as applicable, may be developed without any further transportation analysis:

*NOTE: The following listing of transportation improvements are subject to further review and confirmation*

**1. Johnston Road (US 521) & N Community House Road (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Modify the northbound thru-right turn lane to a right turn only lane with right turn overlap phasing on US 521
- Implement northbound right turn overlap phasing
- Construct channelized free flow westbound right turn lane on N Community House Rd

*2030 Phase 2 Build Suggested Recommendations:*

- Assuming 2025 Phase 1 Improvements, no additional improvements are suggested at this intersection for 2030 Phase 2 Build Conditions.

**2. Johnston Road (US 521) & Toringdon Way (Unsignalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a northbound right turn lane with 150 feet of storage on US 521

*2030 Phase 2 Build Suggested Recommendations:*

- Assuming 2025 Phase 1 Improvements, no additional improvements are suggested at this intersection for 2030 Phase 2 Build Conditions.

### **3. Johnston Road (US 521) & I-485 Inner Ramps (Signalized)**

#### *2025 Phase 1 Build Suggested Recommendations:*

- Extend the outermost eastbound right turn lane from 175 feet to 375 feet of storage on I-485 Inner Off Ramp

#### *2030 Phase 2 Build Suggested Recommendations:*

- Assuming 2025 Phase 1 Improvements, no additional improvements are suggested at this intersection for 2030 Phase 2 Build Conditions.

### **4. Johnston Road (US 521) & I-485 Outer Ramps (Signalized)**

#### *2025 Phase 1 Build Suggested Recommendations:*

- Extend the eastbound left turn lanes from 505 feet to 775 feet of storage on I-485 Outer Off Ramp

#### *2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lanes from 775 feet to 900 feet of storage on I-485 Outer Off Ramp

### **5. Johnston Road (US 521) & Brixham Hill Avenue / Proposed Smoky Drive (Signalized)**

#### *2025 Phase 1 Build Suggested Recommendations:*

- Construct a northbound right turn lane with 150 feet of storage on US 521
- Remark existing painted out median to provide additional southbound left turn lane with storage of 250 feet on US 521
- Construct a channelized westbound right turn lane with a storage of 300 feet on proposed Smoky Dr
- Extend the westbound left turn lane from 55 feet to 200 feet of storage on proposed Smoky Dr

#### *2030 Phase 2 Build Suggested Recommendations:*

- Remark existing eastbound thru-right turn lane into a right-turn lane with 545 feet of storage to prohibit thru-movements on Brixham Hill Ave
- Remark existing westbound thru lane into a second channelized right-turn lane to prohibit thru-movements on Smoky Dr

### **6. Lancaster Highway & Ballantyne Commons Parkway (Signalized)**

#### *2025 Phase 1 Build Suggested Recommendations:*

- Construct a westbound left turn lane with 375 feet of storage on Ballantyne Commons Pkwy (from existing median) and an additional receiving lane by providing minor widening on Lancaster Hwy south of the intersection
- Construct channelized free flow northbound right turn lane on Lancaster Hwy

*2030 Phase 2 Build Suggested Recommendations:*

- Assuming 2025 Phase 1 Improvements, no additional improvements are suggested at this intersection for 2030 Phase 2 Build Conditions.

**7. Johnston Road (US 521) & Providence Road W (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct an additional westbound right turn lane with storage of 250 feet on Providence Rd W
- Implement northbound right turn overlap phasing

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the westbound right turn lanes from 250 feet to 350 feet on Providence Rd W

**8. Johnston Road (US 521) & Ballantyne Commons Parkway (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a northbound right turn lane with 150 feet of storage on US 521
- Implement northbound right turn overlap phasing

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lanes from 250 feet to 400 feet on Ballantyne Commons Pkwy
- Extend the eastbound right turn lanes from 160 feet to 300 feet on Ballantyne Commons Pkwy
- Extend the westbound left turn lanes from 250 feet to 400 feet on Ballantyne Commons Pkwy
- Extend the westbound right turn lanes from 245 feet to 350 feet on Ballantyne Commons Pkwy

**9. Ballantyne Commons Parkway & John J Delaney Drive / Proposed Curran Drive (Unsignalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants)

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lane from 150 feet to 200 feet on Ballantyne Commons Pkwy

**10. Ballantyne Commons Parkway & Ballantyne Corporate Place (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a southbound right turn lane with a storage of 375 feet on Ballantyne Corporate Pkwy
- Implement southbound right turn overlap phasing

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lanes from 175 feet to 250 feet on Ballantyne Commons Pkwy

**11. Ballantyne Commons Parkway & Summit Commons Boulevard (Unsignalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants)

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lane from 150 feet to 250 feet on Ballantyne Commons Pkwy

**12. Ballantyne Commons Parkway & Ballantyne Forest Drive (Unsignalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a northbound right turn lane with 50 feet of storage on Ballantyne Forest Dr

*2030 Phase 2 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants).

**13. N Community House Road & Ballantyne Commons Parkway (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct an additional eastbound right turn lane with 135 feet of storage on Ballantyne Commons Pkwy and an additional receiving lane on N Community House Rd by utilizing existing pavement width

- Construct an additional westbound right turn lane (that starts at existing driveway) with 175 feet of storage on Ballantyne Commons Pkwy (There may be additional concerns with the installment of the right turn lane i.e. ROW, buildings, grades, etc. and other improvements may be considered)

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lanes to maximize storage

**14. N Community House Road & Everett Building Driveway / Proposed Curran Drive (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a southbound right turn lane with a storage of 200 feet on N Community House Rd
- Construct a northbound right turn lane with a storage of 175 feet on N Community House Rd
- Construct an eastbound right turn lane with a maximized storage on Curran Dr
- Construct a westbound right turn lane with a storage of 300 feet on Curran Dr
- Implement westbound right turn overlap phasing
- Extend the westbound left turn lane from 50 feet to 150 feet on Curran Dr

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the southbound left turn lane from 210 feet to 250 feet on N Community House Rd
- Extend the westbound left turn lane from 150 feet to 250 feet on Curran Dr

**15. N Community House Road & Calhoun Building Driveway (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- No suggested improvements.

*2030 Phase 2 Build Suggested Recommendations:*

- Extend the northbound left turn lane from 240 feet to 300 feet on N Community House Rd

**16. N Community House Road & Endhaven Lane (Signalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Construct a northbound right turn lane with a storage of 225 feet on N Community House Rd
- Construct and maximize the length of westbound left turn lane storage on Endhaven Lane
- Extend the westbound right turn lane from 185 feet to 215 feet on Endhaven Ln

*2030 Phase 2 Build Suggested Recommendations:*

- Extend to maximize the length of westbound right turn lane storage on Endhaven Ln

#### **17. N Community House Road & Toringdon Way (Unsignalized)**

##### *2025 Phase 1 Build Suggested Recommendations:*

- No suggested improvements.

##### *2030 Phase 2 Build Suggested Recommendations:*

- No suggested improvements.

#### **18. Ballantyne Commons Parkway & Ballantyne Corporate Place (Unsignalized)**

##### *2025 Phase 1 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants).
- Implement southbound right turn overlap phasing

##### *2030 Phase 2 Build Suggested Recommendations:*

- Extend the eastbound left turn lane from 175 feet to 450 feet on Ballantyne Commons Pkwy
- Extend the westbound right turn lane from 175 feet to 200 feet on Ballantyne Commons Pkwy

#### **19. Ballantyne Corporate Place & In the vicinity of the South Parking Garage Driveway / Proposed Curran Drive (Unsignalized)**

##### *2025 Phase 1 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants)
- Remark northbound TWLTL to provide 100 feet left turn lane storage on Ballantyne Corporate Pl
- Remark southbound TWLTL to provide 100 feet left turn lane storage on Ballantyne Corporate Pl
- Construct a southbound right turn lane with 100 feet of storage on Ballantyne Corporate Pl
- Construct a separate westbound left turn lane with 200 feet of storage on Curran Dr
- Construct an eastbound thru-right turn lane and separate left-turn lane with 100 feet of storage on Curran Dr

##### *2030 Phase 2 Build Suggested Recommendations:*

- Extend the southbound left turn lane from 100 feet to 200 feet on Ballantyne Corporate Pl

**20. Ballantyne Corporate Place & In the vicinity of the North Parking Garage Driveway / Proposed Smoky / Bissell Drive (Unsignalized)**

*2025 Phase 1 Build Suggested Recommendations:*

- Remark northbound TWLTL to provide 100 feet of left turn lane storage on Ballantyne Corporate Pl
- Remark southbound TWLTL to provide 100 feet of left turn lane storage on Ballantyne Corporate Pl
- Construct a northbound right turn lane with 100 feet of storage on Ballantyne Corporate Pl
- Construct a southbound right turn lane with 100 feet of storage on Ballantyne Corporate Pl
- Construct a separate westbound left turn lane with 225 feet of storage on Bissell Dr
- Construct an eastbound thru-right turn lane and separate left-turn lane with 100 feet of storage on Smoky Dr

*2030 Phase 2 Build Suggested Recommendations:*

Option 1-

- Construct a four-leg, single-lane roundabout.

Option 2-

- Due to the urban nature of the site and the potential light rail connection plans to Smoky Drive/Bissell Drive, a traffic signal may be the more suitable configuration for this intersection and can be evaluated at any time during the development.

**21. N Community House Road & Proposed Bissell Drive (Unsignalized)**

We propose the following intersection configuration for the 2025 Phase 1 Build scenario:

- Construct a northbound left turn lane with 100 feet of storage from within the existing median on N Community House Rd
- Construct a southbound right turn lane with 100 feet of storage on N Community House Rd
- Construct an eastbound left-turn lane with 300 feet of storage and a terminating right-turn lane on Bissell Dr

*2030 Phase 2 Build Suggested Recommendations:*

- Install a traffic signal (a signal warrant analysis should be conducted at the completion of each Phase, or when it is determined the intersection traffic volumes may meet the necessary warrants)
- Extend the northbound left turn lane from 100 feet to 250 feet on N Community House Rd

c. **Phase III Development & Major Transportation Events.** Reference is made to Section III.d and *Table III.d.* above for development levels beyond the Phase I Development and Phase II Development, referenced as the Phase III Development. Those provisions provide for additional development levels but it is expressly understood that no permits nor certificates of occupancy may be issued with respect to the Phase III Development without BOTH: (i) the occurrence of a Major Transportation Improvement Event as described in Section III.d above as determined by CDOT and (ii) in each such instance of a Major Transportation Event, additional transportation analysis

reasonably acceptable to CDOT and NCDOT, as applicable, to demonstrate verification of the benefit of each such Major Transportation Event(s) and suitable transportation adequacy levels associated with the Phase III Development.

**CDOT Comment:** The petitioner should clarify this conditional note (V.c), as it may be perceived as a contradiction to the conditional note within Section I.e. Additionally, note (V.c.ii) should clarify that a Phase III TIS will be required. Please remove language involving Major Transportation Events, and clarify that a TIS will be completed and approved for Phase III.

**VI. Design Standards/Guidelines Applicable to Rezoning Site.** The following sets forth certain design standards for specific types of conditions and building types/uses and they are in addition to and will control in the event of a conflict or discrepancy with those standards/guidelines set forth in other provisions of the Rezoning Plan or in the MUDD district provisions of the Ordinance (*as an Optional Provision*). The following provisions are subject to the application of any applicable MUDD *Optional Provisions* set forth in the Rezoning Plan.

- a. Limited Application of Standards to Existing Built Development.** Only the provisions of Section VI.d. regarding setbacks and Section VI.e. regarding height shall apply to Existing Built Development, all other provisions of this Section VI shall not apply. Façade changes to Existing Built Development shall be subject to the provisions of the MUDD zoning district.
- b. Application of Standards to Existing Built Development Expansion and New Development.** The following standards of this Section VI shall apply to Existing Built Development Expansions and New Development, provided that:
  1. As to Existing Built Development Expansion, the applicable design standards set forth in this Section VI shall only apply to the portion of the Existing Built Development undergoing the expansion as described in the definition of Existing Built Development Expansion above in Section I.
  2. In connection with Existing Built Development, Existing Built Development Expansion, and New Development, parking and maneuvering may remain between the building(s) and the street in the manner set forth in the Optional Provisions of Sections II.a, b and c above.

**CDOT Comment:** The petitioner should revise conditional note (VI.b.2) to correct the references to Sections II.a,b, and c, please review and update.

**c. Frontage Types for Certain Design Standards.** The dimensional and design standards of Sections VI.d. as to Existing Built Development, and Sections VI.f, g, h, and i. below for Existing Built Development Expansion and New Development (subject to Section VI. b. above) are determined with reference to the following network required street frontage types:

- 1. Main Street - Street Classification and Frontage Type.** This is the primary street at the core of redevelopment in Development Area A to foster a high level of commercial and residential activity with emphasis on the pedestrian environment.
- 2. Four Lane (or greater) Boulevard - Street Classification and Frontage Type.** A right-of-way with a minimum of two (2) lanes of travel for each direction and center space.



3. **Limited Access Road - Street Classification and Frontage Type.** I-485 and/or similar roadways designated for high speed traffic which have limited or no access to adjacent parcels.

4. **Primary Street – Street Classification and Frontage Type.** A frontage along an Avenue (as defined in the City of Charlotte Urban Street Design Guidelines or similar provisions) or Collector Street (as defined in the City of Charlotte Urban Street Design Guidelines or similar provisions) or a publicly accessible open space, park, plaza or path.

5. **Secondary Street – Street Classification and Frontage Type.** A frontage that does not meet the criteria of a Main Street, Four Lane Avenue/Boulevard, Limited Access Road or Primary Frontage.

*It is understood that street frontages for new and existing network required streets on the west side of Highway 521 shall be determined during the land development process and shall only apply to new development.*

**Application to Lots with Multiple Frontages.** The following establishes criteria for with multiple frontages.

1. When a lot has two (2) frontages, at least one (1) frontage shall be a Primary Street frontage type or Main Street frontage type. If neither frontage meets the criteria listed for Primary Street frontage, one (1) frontage shall be designated as a Primary Street frontage type.

2. When a lot has three (3) frontages, at least one (1) frontage shall be designated as a Primary Street frontage type or Main Street frontage. If no frontage meets the criteria listed for a Primary Street frontage, one (1) frontage shall be designated as a Primary Street frontage.

3. When a lot has four (4) frontages, at least one (1) frontage shall be designated as Primary Street frontage type or Main Street frontage. If less than two (2) frontages meet the criteria for Primary Street frontage, additional Primary Street frontages shall be designated to meet this minimum.

**d. Setbacks.** The following establishes setbacks for Existing Built Development, Existing Built Development Expansion, and New Development based on the applicable street frontages; provided, however, variations and adjustments to the following setback standards and those contained in the MUDD provisions of the Ordinance may be allowed upon the reasonable approval of the Planning Director in connection with light rail transit service and/or express bus service to the Rezoning Site. In no instance shall the minimum setback be less than fourteen (14) feet.

**[NOTE TO STAFF: The following setbacks are critical to designing for the transitioning suburban condition and evolving urban environment.]**

1. Main Street – the minimum setback shall be 16’ as measured from the back of existing or future curb.

2. Four Lane Avenue/Boulevard – the minimum setback shall be 20’ as measured from the back of existing or future curb.
3. Limited Access Road – the minimum setback shall be 20’ as measured from the right of way.
4. Primary Street – the minimum setback shall be 16’ as measured from the back of existing or future curb.
5. Secondary Street – the minimum setback shall be 16’ as measured from the back of existing or future curb.

**e. Maximum Building Height.** The maximum building height for buildings associated with Existing Built Development, Existing Built Development Expansion, and New Development within the Site shall be as set forth on Sheet RZ-4.0. It is understood, however, that the building heights set forth on Sheet RZ-4.0 may be increased by 25% in the event light rail transit service is extended to the Site within close proximity of the stations.

**f. Required Height Stepback.** The following establishes architectural stepback above the ground floor for Existing Built Development Expansion and New Development (subject to Section VI.b above) based on street frontages as follows:

1. Main Street – buildings over 100’ tall shall have a stepback of a minimum of 10’ above the ground floor and no higher than the fourth (4<sup>th</sup>) story of the building.
2. Four Lane Avenue/Boulevard – Not applicable
3. Limited Access Road – Not applicable
4. Primary Street – buildings over 120’ tall shall have a stepback of a minimum of 10’ above the ground floor and no higher than the sixth (6<sup>th</sup>) story of the building.
5. Secondary Street – Not applicable

**g. Building Dimension.** The maximum building frontage along Main Streets, Four Lane Avenue/Boulevard, Primary Streets and Secondary Streets shall be 500’ unless a break in the ground floor of the building is provided in which case the building frontage can be longer than 500’. This provision shall not apply to large format users in Development Area C.

**h. Building Articulation.** As to Existing Built Development Expansion and New Development (subject to Section VI.b above), the following building articulation standards shall govern the dimensions of building façade elements, transparency, and entry features, and are intended to facilitate the enhancement of a pedestrian-oriented environment for new development excluding structured parking.

1. **Ground Floor Height.** The following establishes the minimum ground floor height based on street frontage:
  - i. Main Street: 16’ minimum applies to non-residential uses only
  - ii. Four Lane Avenue/Boulevard: 16’ minimum applies to non-residential uses only

- iii. Primary Street: 14' minimum applies to non-residential uses only
- iv. Secondary Street: Not applicable
- v. Limited Access Road: Not applicable

2. **Blank Wall Area.** Subject to the provisions of Section VI.1 below regarding large format uses, the following establishes the maximum horizontal and vertical blank wall area permitted based on street frontage:

- i. Main Street: 20' maximum
- ii. Four Lane Avenue/Boulevard: 20' maximum
- iii. Primary Street: 20' maximum
- iv. Secondary Street: 20' maximum
- v. Limited Access Road: Not applicable

*Landscaping may be used to address blank walls and/or screen services areas on Four Lane Avenues/Boulevards and Secondary Streets, and blank walls created by topography; such landscaping shall be installed with a minimum height of 1/2 the height of the first story and/or in a manner that screens service areas.*

*If the final architectural design cannot meet the design standards for blank wall articulation, **alternative innovative design solutions** may be considered for the reasonable approval of the Planning Director, or designee, under Section I.d. of these Development Standards.*

3. **Prominent Entrance Spacing.** Subject to the provisions of Section VI.1. below regarding large format uses, the following establishes the maximum distance between Prominent Entrances for buildings longer than 250' based on street frontage:

- i. Main Street: 100' maximum
- ii. Four Lane Avenue/Boulevard: 150' maximum
- iii. Primary Street: 100' maximum
- iv. Secondary Street: 150' maximum
- v. Limited Access Road: Not applicable

4. **Ground Floor Transparency.** Subject to the provisions of Section VI.1. below regarding large format uses, the following establishes the minimum transparency requirements as measured between 3' and 10' from grade based on street frontage:

- i. Main Street: 60% minimum for non-residential uses/25% minimum for residential uses
- ii. Four Lane Avenue/Boulevard: 60% minimum for non-residential uses/25% minimum for residential uses
- iii. Primary Street: 50% minimum for non-residential uses/25% minimum for residential uses
- iv. Secondary Street: 50% minimum for non-residential uses/25% minimum for residential uses
- v. Limited Access Road: Not applicable

*Spandrel glass may be utilized to meet a maximum of 20% of the applicable transparency requirement.*

- i. **Non-residential, Mixed-Use, and Multi-Family Stacked Design Standards.** Except as set forth in Section VI.1. below, the following standards shall apply based on frontage type to

Existing Built Development Expansion and New Development (subject to Section VI.b. above):

1. For buildings of 150' in length on a Main Street, Four Lane Avenue/Boulevard, and/or Primary Street the following standards shall apply:
  - i. facades shall be divided into shorter segments by means of modulation. Such modulation shall occur at interval of no more than 60' and shall be no less than 2' in depth;
  - ii. varied roof lines through the use of slopes, modulated buildings heights, gables, dormers or innovative architectural solutions;
  - iii. utilize building corners to provide visual interest at the pedestrian level as well as to differentiate roof lines or highlight ground floor uses;
  - iv. utilize horizontal and vertical variations in wall planes;
  - v. provide architectural protrusion to accentuate enclosed balconies; and/or
  - vi. a significant change in color and/or material accompanied with a minimum building articulation.
2. Arcades, galleries, colonnades, outdoor plazas, outdoor dining areas, or similar pedestrian-oriented ground floor designs may be incorporated into facades.
3. The ground floor shall be architecturally differentiated from upper stories for buildings five (5) stories and taller through treatments such as, but not limited to, taller ground floor windows, variations in building materials, increased pedestrian level detail etc.
4. All frontages, with the exception of Limited Access Road frontages, shall have a minimum of one Prominent Entrance.
5. All ground floor entrances shall include a direct pedestrian connection between the street facing doors and adjacent sidewalks.
6. Common usable open spaces, site amenity areas or courtyards can be utilized to break up the wall plane.
7. Loading docks, truck doors and service areas for new infill development shall not be oriented to and/or located between the building public streets for new development. Loading docks, truck doors and service areas shall be screened, with landscaping, screen walls or other architectural features, from public view except when topographic and/or environmental site conditions exist making such limitation impractical or if there is a demonstrated public benefit reasonably acceptable to the Planning Director to deviate from this standard.
8. Balconies will be designed so that their size and location maximize their intended use for open space. The balconies and awnings may encroach into the 4-foot setback transition zone above the first story of the building with a clearance from grade of a

minimum of twelve (12) feet when the building is located along and the balcony is facing a public street.

**j. Multi-Family (townhomes) and Single Family Attached and Single-Family Detached Design Standards.** The following design provisions shall apply to multi-family and single family attached townhomes and/or single-family detached units as part of Existing Built Development Expansion and New Development (subject to Section VI.b above):

1. Vehicular entrances to garages shall be located to the rear of the building and shall not face a Main Street frontage, Primary Street frontage, or common open space. A residential alley shall not be considered a frontage.
2. Surface parking lots shall be located to the rear or side of the building.
3. The primary pedestrian entry to each dwelling unit shall face a frontage or a common open space if the open space is a minimum of 20' in depth.
4. To provide privacy, all residential entrances within 15 feet of the sidewalk must be raised from the average sidewalk grade a minimum of 12 inches, subject to applicable deviations to address site constraints.
5. Pitched roofs, if provided, shall be symmetrically sloped no less than 6:12, except that roofs for porches and attached sheds may be no less than 2:12, unless a flat roof architectural style is employed.
6. Usable porches and stoops shall form a predominate feature of the building design and be located on the front and/or side of the building. Usable front porches are covered and are at least 4 feet deep. Stoops and entry-level porches may be covered but not be enclosed.
7. All corner/end units that face a public or private street should have a porch or stoop that wraps a portion of the front and side of the unit or blank wall provisions shall be implemented that limit the maximum blank wall expanse to 10 feet on all building levels and/or allows acceptable landscaping treatments along such areas.
8. Sidewalks should be provided to connect one residential entrance to sidewalks along public and private streets.
9. Buildings may orient to open space in lieu of a public street.

**k. Structured Parking Design Standards.** The following standards shall apply to Existing Built Development Expansion and New Development (subject to Section VI.b above) structured parking facilities:

1. Building materials associated with facades on parking structures not screened by landscaping or other buildings shall be generally compatible in character and quality with materials used on nearby buildings, plazas and streetscapes, taking into consideration differences associated with parking structures;
2. Parking structures shall be designed to materially screen the view of parked cars from adjacent public or private streets or publicly accessible open spaces or plazas.

Screening of cars on the ground level and second level will be accomplished primarily through the use of decorative louvers and similar features, and/or landscaping. Cars shall not be visible from the street and/or adjacent sidewalk. Deviations are permitted along I-485 and where landscaping or walls a minimum of 42 inches tall are permitted screening.

3. Screening of cars parked on the upper level will be accomplished by a wall, at least 36 inches in height, designed as part of the parking deck structure except in Development Area A where the first two levels facing a public street shall be screened with decorative louvers or glazing.

4. Architectural detailing should minimize large expanses of horizontal openings in excess of 20 feet and should provide vertical breaks from ground level to top level every 50 feet.

5. Existing parking structures may be converted to occupiable space. The area improved shall comply with the minimum design standards set forth in the Ordinance and the *Optional Provisions*

**CDOT Comment:** The petitioner should revise the site plan and conditional note (VI.k) to specify that the parking structure's deck entrance height shall be a minimum of 13' to accommodate ingress/egress for moving trucks, delivery trucks, solid waste trucks, and other large service vehicles without reversing within the public r/w. Maneuvering should not occur within the public r/w, but rather on each site or private property. Also, refer to the CDOT comment regarding Section II.a.3.

**I. *Optional Provision* – Larger Format Users.** The standards of this Section VI shall not apply to large format users as described in the *Optional Provision* set forth in Section II.a.6 above.

## **VII. Lighting Standards Applicable to Rezoning Site.**

**a.** All lighting shall be full cut-off type lighting fixtures excluding lower, decorative lighting that may be installed along driveways, sidewalks and park areas.

**b.** Detached lighting, except street lights located along public and private streets, will be limited to 26 feet in height in portions of the MUDD-O Areas used for non-residential uses and 21 feet in height for portions used for residential uses.

**c.** Lighting will be downwardly directed however architectural lighting on building facades, such as sconces, will be permitted.

**CDOT Comment:** The petitioner should revise the site plan and conditional notes, within Section VII, to commit to pedestrian lighting within the development to encourage walkability during all times of the day. During the site plan comments meeting on 12/18/19, it was agreed that conditional notes would be added to incorporate pedestrian lighting on all proposed primary and secondary roads. Pedestrian scale street lighting should be included within the cross sections within RZ-7.0B1 and RZ-7.0B2 to provide further clarification. The petitioner would be responsible for initial implementation costs; and the city will assume maintenance and operation costs for implemented pedestrian lights on the Site, as located within an Activity Center. The petitioner should coordinate with Duke for the installation of the street/pedestrian lights, and to select Duke approved lighting

fixtures. The lighting fixture and pole colors should match the color specifications of the existing street lights, as coordinated with Duke.

#### **VIII. Signage Standards Applicable to All MUDD-O Districts.**

*a. See the Optional Provisions related to signs in Section II of these General Development Standards.*

**IX. Environmental Vision Plan & Environmental Features; PCSO.** The below sets forth the Environmental vision and implementation plan for development taking place on the Rezoning Site and certain other guidelines related to environmental and sustainability aspects associated with the Rezoning Plan. The Environmental Plan provides overarching context, intent and requirements for the addressing certain environmental aspects contemplated for the Rezoning Site including open space, stormwater/PCSO, tree ordinance, and similar features.

**a. Tree Save.** The Rezoning Site (as defined by this Rezoning Plan) is a master planned unified development, tree save requirements set forth in the Tree Ordinance applicable to development and redevelopment in the Rezoning Site (as defined in this Rezoning Plan) may be met using any area within the Rezoning Site (as defined in this Rezoning Plan) such that individual parcels within the Rezoning Site will not be required to provide tree save areas within such parcel boundaries provided that the overall tree save areas and requirements for overall Rezoning Site are in compliance.

**b. Storm Water Management.** For development of pervious areas within the boundaries of the Site (as defined in this Rezoning Plan), the Post Construction Storm Ordinance (the “PCSO”) shall not apply if storm water runoff from the proposed built-upon area drains to an existing bmp which has been demonstrated to have been previously master planned, designed and constructed to treat storm water runoff from the proposed built-upon-area per the 1999 NCDENR BMP design criteria for Water Quality. For development of pervious area exceeding these criteria and for redevelopment, PCSO compliance will be required. Reference is made to that certain Technical Memorandum dated as of August 30, 2011 prepared by Kimley-Horn and Associates and approved by City of Charlotte Land Development Officials and other officials responsible for the implementation of the PCSO and related storm water matters (the “Technical Memorandum”). The Technical Memorandum is intended to provide guidance in the implementation of storm water aspects and the PCSO in connection with development of the Rezoning Site and may be relied upon in connection therein by the Petitioner (its affiliates and successors and assigns). For development within the boundaries of the Rezoning Site (as defined in this Rezoning Plan) outside of the drainage areas for existing bmp’s mentioned above, PCSO compliance will be required.

**X. CATS.**

**a.** Petitioner, or assigns, will provide for locations within dedicated rights of way for on-street bus stops, bus shelters, and bus pull outs for future bus rapid transit in a manner consistent with CATS guidelines upon review and approval of CATS. Petitioner, or assigns, will provide for the concrete pads associated with such bus stops and will seek to provide for site designs that promote pedestrian connectivity to such bus stops from nearby uses. These efforts will occur during the land development process for development taking place along the applicable rights of way.

**CDOT Comment:** The petitioner should include language to the conditional notes within Section VII.x for mobility hubs, as referenced with RZ-12.0. If mobility hubs are included within the DA, the Petitioner is required to comply with the terms and conditions listed within the DA. Unless otherwise commented by CATS, the Petitioner should commit to providing shelters at each bus stop servicing the Site.

**b.** See also provisions of Section IV.d above regarding LRT service matters.

**XI. Amendments to the Rezoning Plan; Binding Effect:**

**a. Amendments.** Future amendments to the Rezoning Plan (which includes these Development Standards) may be applied for by the then Owner or Owners of the applicable portions or parcels of the Rezoning Site affected by such amendment in accordance with the provisions the Development Standards, including without limitation Section II of these General Development Standards, and of Chapter 6 of the Ordinance, as applicable.

**b. Binding Effect.** If this Rezoning Petition is approved, all conditions applicable to the development of the Rezoning Site imposed under the Rezoning Plan will, unless amended in the manner provided herein, be binding upon and inure to the benefit of the Petitioner, or assigns, and subsequent owners of portions or parcels of the Rezoning Site, as applicable, and their respective heirs, devisees, personal representatives, successors in interest or assigns. These provisions are in addition to the other provisions of these Development Standards that reference completion of commitments by Petitioner, or assigns, or Petitioner including assigns of same.