APPROVED BY
CITY COUNCIL

JAN 19 2010

Petition No.: 2009-078
Petitioner: Charlotte-Mecklenburg Planning Commission

AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE –ZONING ORDINANCE

Revised 12-10-09

ORDINANCE NO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

A. CHAPTER 9: GENERAL DISTRICTS

1. PART 9: UPTOWN MIXED USE DISTRICT

a. Amend Section 9.905, "Uptown Mixed Use District; area, yard, and height regulations", by referencing the Brevard Street Area setback regulations in subsection (2), "Minimum setback". The revised section shall read as follows:

(2) Minimum setback: With the exception of the Brevard Street area (see Section 9.906(2)(d)(2)(d)), all new buildings or uses shall be 12 feet from the back of existing or proposed curb, or greater if required by a City Council adopted streetscape plan or the Charlotte Tree Ordinance. As a minimum, a 6-foot wide sidewalk along with a 6-foot planting strip is required along all streets unless otherwise specified by a City Council approved streetscape plan.

However, if new construction incorporates an existing structure and such incorporation of the existing structure necessitates a reduction of the minimum setback requirement, then the setback may be reduced as necessitated because of the incorporation of the existing structure into the new structure but under no circumstances shall the setback of any portion of the new structure be less than 8 feet from the back of the curb.

In addition all transformer vaults, utility structures, air vents, backflow preventers, fences, or any other similar devices, which may obstruct the sidewalk, must be behind the setback in order to leave the sidewalk clear for pedestrian circulation, with one

exception for temporary fences. Temporary fencing shall be permitted in the setback around outdoor seating areas used for consumption of food and beverages, as long as adequate pedestrian circulation is maintained.

No doors shall be allowed to swing into the setback except emergency exit doors.

For the purposes of this section, the setback applies to all street frontages, not just to the street toward which the structure is oriented. The intent of this requirement is to assure the provision of adequate sidewalk and planting strips in all cases.

b. Amend Section 9.905, "Uptown Mixed Use District; area, yard, and height regulations", subsection (4) by referencing the Brevard Street Area height regulations. The revised section shall read as follows:

(4) Maximum height: With the exception of the Brevard Street area (see Section 9.906(2)(d)(2)(c)), there is no maximum height, however, no structure, fixture or other objects over 60 feet in height on a lot abutting residentially zoned land which has residential structure of 40 feet or less in height may be situated so that it casts a shadow at a distance greater than 20 feet across any property line on either time of solstice between the hours of 9:00 a.m. and 3:00 p.m. Eastern Standard Time.

c. Amend Section 9.906, "Uptown Mixed Use District; urban design and development standards", subsection (2), "Streetscape design standards" by adding reference to the Brevard Street Land Use and Urban Design Plan and the Center City Transportation Plan in the first paragraph. Other subsections remain unchanged. The revised paragraph shall read as follows:

(2) Streetscape design standards. The relationship between a building and areas for pedestrian or vehicular circulation must be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this district, except renovated and rehabilitated buildings, must meet the following minimum standards. For the purpose of these provisions "the streetscape plan" document adopted by the City Council April 22, 1988 which may include maps, illustrations, and written descriptions which define the relationships between the component elements that make up the street environment including the space between buildings and streets, paving, signage, trees and street furniture. This includes the adopted Center City Charlotte Urban Design Plan, Core Uptown Streetscape Plan, Center City 2010 Vision Plan, Center City Transportation Plan, Brevard Street Land Use and

Urban Design Plan, and any more specific or detailed plans, which may be adopted in the future.

d. Amend Section 9.906, "Uptown Mixed Use District; urban design and development standards", subsection (2), "Streetscape design standards", subsection (b), "Street walls" by referencing the Brevard Street Area regulations in the second paragraph. All other paragraphs remain unchanged. The revised section shall read as follows:

(b) Street walls. The first floors of all buildings, including structured parking, must be designed to encourage and complement pedestrian-scale interest and activity.

It is intended that this be accomplished principally by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 50% of the length of the first floor street frontage, except for the Brevard Street area (see Section 9.906(2)(d)(2)(a), (b), (e) and (f)).

In addition a combination of design elements must be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include but not be limited to the following: ornamentation; molding; string courses; belt courses; changes in material or color; architectural lighting; works of art; fountains and pools; street furniture; landscaping and garden areas; and display areas. In the event that ventilation grates or emergency exit doors are located at the first floor level in the building facade then they must be decorative.

Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the City of Charlotte Department of Transportation (CDOT) or North Carolina Department of Transportation (NCDOT) respectively.

Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade, which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph.

The first floor and street level must be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

Structured Parking Facilities.

In addition to the above listed requirements, structured parking facilities must be designed so that the only openings at the street level are those to accommodate vehicle entrances and pedestrian access to the structure, with the exception of the Tryon Street Mall (see Section 9.906(2)(d)(1)) and the Brevard Street area (see Section 9.906(2)(d)(2)(f)).

In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade then they must be decorative and must be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances must be designed so that cars parked inside are not visible from the street. The remainder of the street level frontage must be either occupied retail space or an architecturally articulated facade designed to screen the parking areas of the structure, to encourage pedestrian scale activity, and to provide for urban open space.

Cars on all levels of a structured parking facility must be screened from view from the street utilizing decorative elements such as grillwork or louvers. In no instance will cabling alone be sufficient to meet this screening requirement.

The design requirements of this section apply to all building facades, which are visible from any public right-of-way.

e. Amend Section 9.906 "Uptown Mixed Use District; urban design and development standards", subsection (2), "Streetscape design standards", subsection (d),"Tryon Street Mall" by adding new development and urban design regulations for the area included in the Brevard Street Land Use and Urban Design Plan. In addition, re-title subsection (d) as, "Special regulations for Tryon Street Mall and Brevard Street Area", and renumber "Tryon Street Mall" as subsection (1). Add a new subsection (2), titled Brevard Street Area". The revised section shall read as follows:

(d) Special regulations for Tryon Street Mall and Brevard Street Area.
The following regulations are in addition to the UMUD development and urban design regulations found in Section 9.905 and 9.906, and Section 9.907. In the event there are conflicting regulations, the more strict regulations shall apply.

(1) Tryon Street Mall. The Tryon Street Mall is defined as the area contained within the John Belk Freeway Bridge and the Brookshire Freeway Bridge along Tryon Street including the 100 blocks of West and East Trade Street. Access for emergency service vehicles will be allowed at all times from the Tryon Street Mall. The service and utility areas of buildings, which have access only from

the Tryon Street Mall, will be allowed access from the Tryon Street Mall anytime between 6:00 p.m. and 7:30 a.m. on Mondays through Saturdays and anytime during Sundays and holidays. No vehicular access from surface or structured parking will be allowed to or from the Tryon Street Mall along Tryon Street. Vehicular access from surface or structured parking will be allowed for "right in" and "right out" access along the Trade Street portion of the Tryon Street Mall.

(2) Brevard Street Area. The Brevard Street Area is defined as the area bounded by the LYNX Blue Line, East Trade Street, South Caldwell Street, and Interstate 277, but including the property immediately fronting both sides of these streets, as shown on the map below.

The Brevard Street Land Use and Urban Design Plan was adopted by City Council in March 2008. The following development and urban design standards are designed to implement the vision of the plan, and shall be applicable only in the Brevard Street area illustrated above. All other UMUD standards and requirements found in Chapter 10, Part 9 still apply, however, where there may be conflicts, the development and urban design standards of this subsection shall have precedence.

(a) First floor retail. All new buildings in the Brevard Street area shall be designed so that a minimum of 50% of the net first floor area shall accommodate retail activities. See also Section 9.906(6).

(b) Street level façades. The street façade of all new buildings along

Brevard Street shall be designed to accommodate retail activities along a minimum of 80% of the first floor façade, excluding entrances and exits, to create the appearance of an unbroken storefront. Along all other streets in the Brevard Street area, a minimum of 75% of the first floor façade shall be designed for retail activities, excluding entrances and exits. All retail first floor street façades shall include the use of clear vision glass windows and doors so that retail activities are visible from and/or accessible to the street. No reflective or spandrel glass shall be permitted. See also Section 9.906(2)(j) and (k), and Section 9.906(6) and 9.906(7).

(c) Building Height. Building heights shall be a maximum of 60 feet along Brevard Street and Caldwell Street. Building heights can exceed 60 feet if the upper portion of the building is stepped back 20 feet from the minimum setback, as illustrated below. See also Section 9.905(4).

(d) Minimum Setback. All new buildings along Brevard Street shall have a minimum setback of 22 feet. The setback along Brevard Street shall be measured from a point 8.5 feet (consisting of a 2-foot valley curb and a 6.5-foot on-street parking lane) from the edge of the ultimate travel lane closest to the site. The edge of the ultimate travel lane shall be jointly determined by the Charlotte

Department of Transportation (CDOT) Director and the City Engineer, or their designee(s).

All new buildings along Caldwell Street shall have a minimum setback of 16 feet. All new buildings on other streets shall have a minimum setback as specified in the Center City Transportation Plan. Setbacks shall be measured from the back of all existing or future curbs, whichever is greater. If the existing right-of-way is greater than the minimum setback from the back of existing or future curbs, the right-of-way line shall become the minimum setback. If the existing curb line varies, the setback shall be measured from the widest sections. Curb lines are to be determined jointly by the Charlotte Department of Transportation (CDOT) Director and the Planning Director, or their designee(s). See also Section 9.905(2).

(e) Variation in Building Façade. Variation in the building street façade shall occur at least every 60 feet. This can be accomplished either by architectural elements, color variation, change in the façade setback, or other means to achieve a varied but consistent streetscape. See also Section 9.906(2)(b), (j) and (k).

(f) Structured Parking Facilities. No new structured parking facilities shall be allowed to have direct vehicular access on Brevard Street. Along all other streets, structured parking facilities may have vehicular access, but shall provide a street level transition area for vehicular stacking between the entrance and/or exit gates or pay station and the back of the sidewalk. All gates and transition areas require CDOT approval. Sloped express exit ramps are prohibited on any façade. See also Section 9.906(2)(b), and 9.907(1)(h) and (j).

(g) Parking. Parking for retail uses with less than 2,500 square feet of gross floor area is not required if the principal use is located within 1600 feet of a parking facility available to the general public. See also Section 9.907.

f. Amend Section 9.906 "Uptown Mixed Use District; urban design and development standards", subsection (2), "Streetscape design standards", subsection (f), "Conformance with approved streetscape plans" by 1) adding a reference to the Brevard Street Land Use and Urban Design Plan, the Center City Transportation Plan, and the Tree Ordinance, 2) replacing the term "Transit Mall" with "Tryon Street Mall", and 3) deleting the word, "boulevard". The remaining paragraph remains unchanged. The revised section shall read as follows:

(f) Conformance with approved streetscape plans. Walking surfaces, street furniture, trees, landscaping, lighting fixtures, information signs, and kiosks constructed in the public right-of-way or required setback must be consistent with the standards specified in the approved Tryon Street Mall streetscape plan, the Trade Street streetscape plans, the Brevard Street Land Use and Urban Design Plan, Center City Transportation Plan, Tree Ordinance, and other applicable approved streetscape plans, or the standards of these provisions where no approved streetscape plan exists. Exterior lighting used on private plazas and walkways must be complementary in design motif to that specified in any applicable approved streetscape plan.

Renovated and rehabilitated structures that are already in place do not have to comply with the setback requirements or urban open space requirements, but must not modify or add to the existing structure in any fashion that would result in a reduction in the distance from the back of the curb to the existing building front.

g. Amend Section 9.906(6), "First Floor Retail Required", by adding reference to the Brevard Street Area, and splitting paragraph one into two paragraphs. The revised text shall read as follows:

(6) First Floor Retail Required. In order to stimulate pedestrian activity at the street level, the first floor (street level) of any new building over 100,000 square feet must devote a minimum of 50% of the net first floor area to retail activities, which promote a visual relationship to the street and encourage movement and activity at street level with the exception of the Brevard Street area (see Section 9.906(2)(d)(2)(a) and (b)). Retail activity refers to any use, which encourages street level activity in the building beyond the normal business day and is in addition to the daily work activities of the building tenants.

Any expansion of an existing building which results in more than 100,000 square feet of new floor area must also comply with this requirement unless the new floor area is all in a vertical expansion which results in no new street level floor area. The minimum 50% area will be computed on the new street level floor area only.

The term retail includes not only sales of merchandise at retail but will also be construed to mean personal and business services, restaurants, galleries, and similar uses but not financial institutions except 25% of the total square footage of required retail space may be utilized by retail banking, stock brokerage offices and other financial services.

Fifty percent of the square footage of a hotel lobby may be counted towards the required retail space.

For the purpose of this subsection, net floor area does not include stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas, or service areas. It is strongly encouraged but not mandated that all street level retail tenants which have sidewalk frontage be furnished with direct access to the sidewalk in addition to any other access that may be provided. If individual entrances are provided to street level retail tenants, which have sidewalk frontage, the required retail floor area may be reduced by 5% of the net floor area for each separate entrance up to a maximum of 5 entrances This standard applies to all new development, which occurs in the area bounded by or along either side of College Street, 8th Street, Church Street, and Stonewall Street. This standard does not apply to any building with a street frontage of less than 24 feet. This first floor retail standard is also not applicable to convention centers and halls, conference centers, exhibition halls, merchandise marts, and similar uses.

h. Amend Section 9.907, "Uptown Mixed Use District; parking and loading standards", subsection (1), "Parking standards", subsection (h) by referencing the Brevard Street Area, and replacing the term "Transit Mall" with "Tryon Street Mall". The revised subsection shall read as follows:

(h) No new grade-level or structural parking lots will be allowed to have vehicular access directly from or to Brevard Street between I-277 and E. Trade Street, or the Tryon Street Mall, with one exception: Along the Trade Street portion of the Tryon Street Mall only "right in" and "right out" access on Trade Street shall be permitted.

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

City Attorney

I, _____, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 19th day of January, 2010, the reference having been made in Minute Book ____, and recorded in full in Ordinance Book _____, Page(s)_____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this ____ day of _____, 2010.

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