

REQUEST	Current Zoning: UMUD, uptown mixed use district and UMUD-O, uptown mixed use district, optional Proposed Zoning: UMUD-O, uptown mixed use district, optional and UMUD-O, SPA, uptown mixed use district, optional, site plan amendment
LOCATION	Approximately 10.90 acres generally surrounded by North College Street, East 9 th Street, North Brevard Street, and East 7 th Street.
SUMMARY OF PETITION	<p>The petition proposes optional variations from the UMUD minimum standards to:</p> <ul style="list-style-type: none">• allow encroachments into the setbacks along the rail corridor, Brevard Street, and East 9th Street,• modify the signage provisions, and• reduce the urban open space requirements for office uses. <p>Additional minor optional provisions are requested to help facilitate the development of the site.</p>
Property Owner	7 th Street Investors, LLC and 9 th Street Investors, LLC
Petitioner	Levine Properties, Inc.
Agent/Representative	Jeff Brown and Keith MacVean, King & Spalding, LLP
Community Meeting	Meeting is required and has been held. Report available online.

ZONING COMMITTEE ACTION

The Zoning Committee voted unanimously to recommend **APPROVAL** of this petition with the following modifications:

1. The addition of an optional provision to allow a proposed underground parking deck to be located within the 22-foot back of curb setback along Brevard Street between East 8th Street and East 9th Street.
2. All CATS comments have been addressed regarding encroachments into the rail corridor.
3. Note C.1.b. has been clarified by indicating temporary buildings and structures may be located within the rail corridor setback during special events for no more than 20 consecutive days.
4. Note C.1.c. has been clarified by indicating the temporary closures of the private street would be limited to no more than 20 consecutive days for public or private events.
5. Note C.3.a. has been modified to indicate the access way for service vehicles along the rail corridor setback will be constructed with either stained concrete, stamped and colored asphalt, concrete pavers or any combination of these materials and that the colors used for the materials will be a color that minimizes staining caused by service vehicles and their cargo.
6. The turnaround area for the access way for the service vehicles has been removed from the setback along East 8th Street.
7. The locations were limited for were the signage optional provisions will apply.
8. Computer programmable L.E.D. systems with full-color, full-matrix displays and full color outdoor video display were each limited to 256 square feet in size and the total number of these wall signs were limited to three.
9. Message centers including ticker tape type moving messages are limited to three buildings.

10. Clarified Note C.4.b. by indicating that the permitted sign type identified as "movie type projected images from either direct projection or rear screen projection" is for special events and will be on a temporary basis not to exceed a total of 50 days within a calendar year.
11. Note C.4. was modified by eliminating the duplicate (a) and (b) subsections.
12. Note C.4. was modified by indicating the number of detached signs with maximum 20-foot heights to be limited to 2.
13. The recessed valet drop-off lane along East 9th Street has been eliminated.
14. The 16-foot setback along East 9th Street from the back of curb is being maintained by eliminating the valet drop-off.
15. Clarified Note C.3.b. by indicating the dumpster and recycling enclosure will not encroach further into the rail corridor setback than the established building line of the existing Dixie's building.
16. Modified Note C.3.c. to state the dumpster and recycling containers must be emptied before 8:00 a.m. or after 6:30 p.m.
17. Clarified Note C.7. by requesting the use of an additional through lane for off-peak valet parking and loading if approved by CDOT.
18. Added a sentence to the end of Note C.1.c. that prior to the temporary closure of the private street, notification will be provided to CDOT so that notice of the street closure can be communicated to interested parties.

VOTE

Motion/Second: Lipton /Walker
 Yeas: Dodson, Fallon, Firestone, Lipton, Phipps, Rosenburgh, and Walker
 Nays: None
 Absent: None
 Recused: None

ZONING COMMITTEE DISCUSSION

Staff reviewed the petition and presented highlights of the optional provisions requested. It was also noted that an optional provision had been added since the public hearing which would allow an underground parking structure to encroach into the required 22-foot back of curb setback along Brevard Street. The underground parking deck would be located no closer than 14 feet from the back of curb and not interfere with pedestrian traffic or the proposed street trees. In conclusion, staff noted that the petition is consistent with the *Center City 2010 Vision Plan* and that all outstanding site plan issues had been addressed.

A commissioner asked when the additional optional provision to allow the encroachment of an underground deck into the setback was added to the request. Staff stated the issue was recently discovered during the urban development review permitting process for the subject site. The optional provision was added to the request after the revised site plan was submitted on October, 22nd.

The commissioner then asked how the encroachment would affect the sidewalk along Brevard Street. Staff stated the underground parking structure would be accessed from 9th Street. The portion of the deck along Brevard Street would be underground and have no impact of the sidewalk.

A commissioner asked if there had been other underground parking encroachments within the uptown. Staff stated the new Duke Energy building facility along First Street at South Tryon Street received an optional provision to allow an underground parking structure to encroach within the setback along First Street.

STATEMENT OF CONSISTENCY

This petition is found to be consistent with the *Center City 2010 Vision Plan* and to be reasonable and in the public interest, by a unanimous vote of the Zoning Committee (motion by Commissioner Dodson seconded by Commissioner Fallon).

STAFF OPINION

Staff agrees with the recommendation of the Zoning Committee.

FINAL STAFF ANALYSIS

(Pre-Hearing Analysis online at www.rezoning.org)

PLANNING STAFF REVIEW

- **Proposed Request Details**

The site plan accompanying this petition contains the following optional variations from the minimum standards of the UMUD section of the City of Charlotte Zoning Ordinance.

- Encroachment of a private street and certain other improvements and activities into the rail corridor 35-foot setback.
 - Private street, associated streetscape, and related improvements between East 7th Street and East 9th Street. This may include, but is not limited to: paving materials, sidewalk improvements, irrigation, utility connections, telecommunication facilities, electrical outlets, water spigots, bollards, benches, street trees, landscaping, and lighting.
 - Temporary structures such as, but not limited to: vendor/sales stands, kiosks, tents for dining, mobile restrooms, crowd control and security features, and temporary signs and banners.
 - The private street may be temporarily closed and used for public or private events limited to no more than 20 consecutive days.
 - Concrete pavers will be utilized as the principal paving material for the private street.
 - A seven-foot planting strip and eight-foot sidewalk will initially be placed on west side of the private street. The seven-foot planting strip will be replaced with trees in tree grates as the site develops. A seven-foot planting strip will be established along the eastern side of the private street.
 - Backflow preventer will not be visible to pedestrians along the private street and may be placed within the interior of buildings.
- Encroachment of building canopies, similar overhang structures, and door swings of buildings into the rail corridor 35-foot setback. If door swings encroach into the rail corridor, the rail corridor sidewalk will be increased to maintain an eight-foot dimension and architectural/site elements will be provided to direct pedestrians away from the door swings.
- Encroachment of an access way for service vehicles into the rail corridor 35-foot setback for the existing "Dixie's Tavern" building.
 - Service area access drive will be integrated into the overall pedestrian area so that it is functional yet unobtrusive. Tryon Street Blend concrete pavers will be used within the rail corridor setback. Portions of the drive outside the rail corridor setback will be constructed of the same material used in the First Ward Park.
 - Dumpster and recycling containers may encroach up to five feet into the rail corridor setback and will be screened with a masonry wall with decorative steel gates.
 - Dumpster and recycling collections will occur before 8:00 am or after 7:00 pm.
- Modify the signage provision to identify the site and tenants within the buildings.
 - Wall signs may cover up to 15 percent of a wall or 300 square feet, whichever is less.
 - Up to two detached signs may be allowed above the seven-foot maximum height for detached signs, provided they do not exceed 20 feet in height.
 - Allowable signage types include all detached and attached signs permitted in UMUD along with the following: 1) computer programmable L.E.D. systems with full-color, full-matrix displays limited to 256 square feet, 2) full color outdoor video display limited to 256 square feet, 3) message centers including ticker tape type moving messages for up to three buildings, 4) signs with movable parts, 5) movie type projected images from either direct projection or rear screen projection during special events not to exceed 50 days during a calendar year and 6) murals and artwork.
 - The following signs will not be permitted: 1) billboards, 2) vinyl signs, 3) roof signs and 4) pole/pylon signs in excess of seven feet.
- Modify the urban open space requirements for office uses.
 - Reduce the amount of urban open space by 50 percent due to the proximity of the site to the proposed First Ward Park.
 - Required urban open space must be visible and accessible to a public street or the sidewalks associated with the transit corridor or the proposed First Ward Park.

- Minimum 30-foot right-of-way for the realignment and reconstruction of 8th Street through the proposed First Ward Park from Brevard Street to the rail transit corridor.
 - Temporarily screen the unfinished portion of the underground parking structure located near the intersection of the rail transit line and East 9th Street with fencing and other materials. This includes during construction of the parking structure and for the first 12 months after issuance of the certificate of occupancy.
 - Allow a blend of concrete pavers, other than the Tryon Street Blend, in the rail corridor setback between East 7th Street and East 9th Street, subject to Planning Department and CATS approval.
 - Encroachment into the required 16-foot setback along East 9th Street for the installation of building columns/blades.
 - Allow a proposed underground parking deck to be located within the 22-foot required back of curb setback along Brevard Street between East 8th Street and East 9th Street. The underground parking deck would be located no closer than 14 feet from the back of curb and not interfere with pedestrian traffic or the proposed street trees.
 - **Public Plans and Policies**
 - The *Center City 2010 Vision Plan* (2000) envisions the Uptown as having a variety of living, entertainment, and cultural activities.
 - This petition is consistent with the *Center City 2010 Vision Plan*.
 - **STAFF RECOMMENDATION (Updated)**
 - Staff agrees with the recommendation of the Zoning Committee.
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DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No issues.
 - **Charlotte Department of Neighborhood & Business Services:** No issues.
 - **Charlotte Department of Transportation:** No issues.
 - **Charlotte Fire Department:** No issues.
 - **Charlotte-Mecklenburg Schools:** No issues.
 - **Charlotte-Mecklenburg Storm Water Services:** No issues.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation:** No issues.
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ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:** No issues.
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OUTSTANDING ISSUES

- No issues.
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Attachments Online at www.rezoning.org

- Application
- Site Plan
- Community Meeting Report
- Charlotte Area Transit System Review
- Charlotte Department of Neighborhood & Business Services Review
- Charlotte Department of Transportation Review
- Charlotte Fire Department Review
- Charlotte-Mecklenburg Storm Water Services Review
- Mecklenburg County Land Use and Environmental Services Agency Review
- Mecklenburg County Parks and Recreation Review
- Pre-Hearing Staff Analysis

Planner: Shad Spencer (704) 353-1132