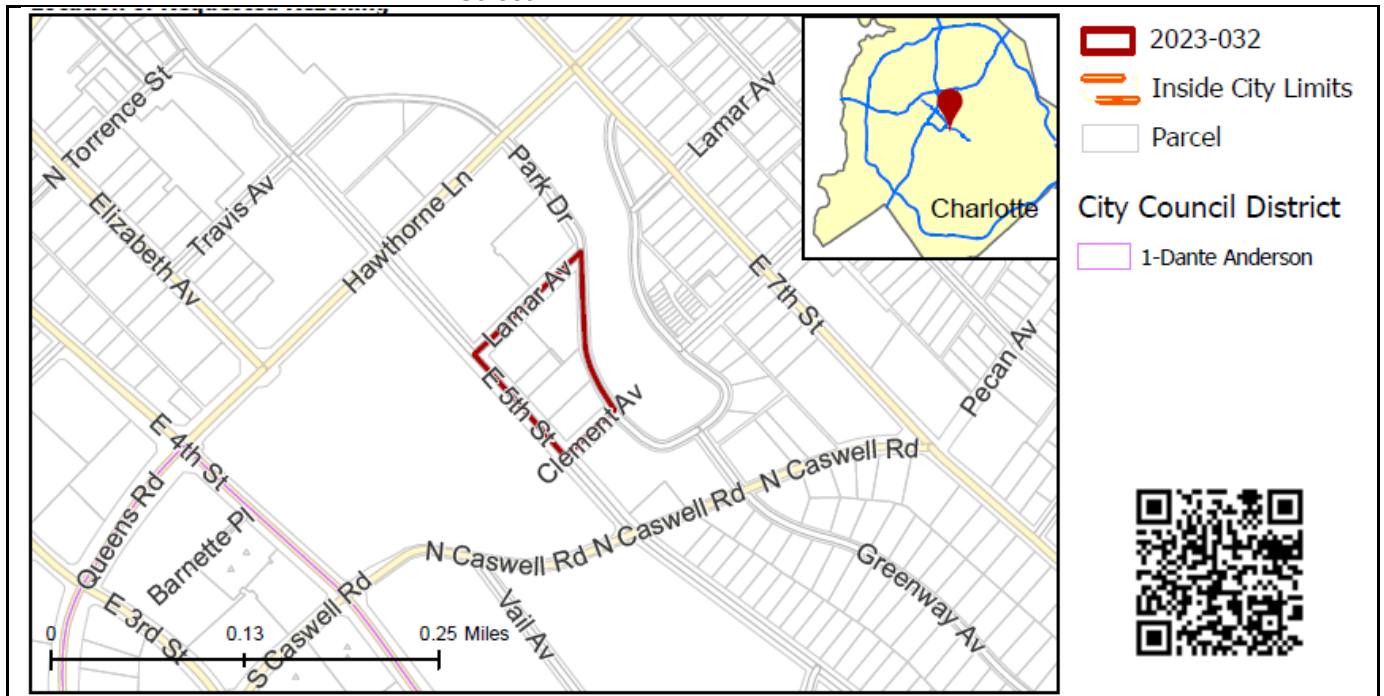


**REQUEST**

Current Zoning: MUDD-O (mixed-use development, optional)  
Proposed Zoning: MUDD-O SPA (mixed use development-optional, site plan amendment)

**LOCATION**

Approximately 2.43 acres bound by the south side of Lamar Avenue, west side of Park Drive, north side of Clement Avenue, and east side of East 5<sup>th</sup> Street.



**SUMMARY OF PETITION**

The petition proposes to amend a previously approved plan permitting 120,000 square feet of medical office and/or office uses, 3,500 square feet of rooftop event/gathering space (EDEE type 2) with accessory rooftop outdoor space, minimum of three thousand (3,000) square feet of open space with improved landscaping and seating areas, and up to 16 townhomes in order to add a health institution to the list of allowable uses.

**PROPERTY OWNER**

Zalecki Family Limited Partnership

**PETITIONER**

The Keith Corporation

**AGENT/REPRESENTATIVE**

Bridget Grant – Moore & Van Allen

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
Number of people attending the Community Meeting: 15

**STAFF RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The petition is **consistent** with the *2040 Policy Map* recommendation for Campus Place Type.

Rationale for Recommendation

- The petition adds a health institution to the list of allowed uses on the site.
- The petition carries forward all the entitlements and conditions from the previously approved rezoning.

- The proposed development is consistent with the mix of primarily institutional and office, and residential developments in the surrounding area.
- The parcel is within 535 feet of the Hawthorne/5<sup>th</sup> Stop on the LYNX Gold Line.
- The project commits to 8-foot sidewalks and 8-foot planting strips along abutting rights-of-way.
- The site lies adjacent to Independence Park.
- The petition could facilitate the following *2040 Comprehensive Plan Goals*:
  - 1: 10-Minute Neighborhood
  - 4: Trail & Transit Oriented Development
  - 5: Safe & Equitable Mobility
  - 6: Healthy, Safe & Activity Communities
  - 7: Integrated Natural & Built Environments
  - 8: Diverse & Resilient Economic Opportunity

## PLANNING STAFF REVIEW

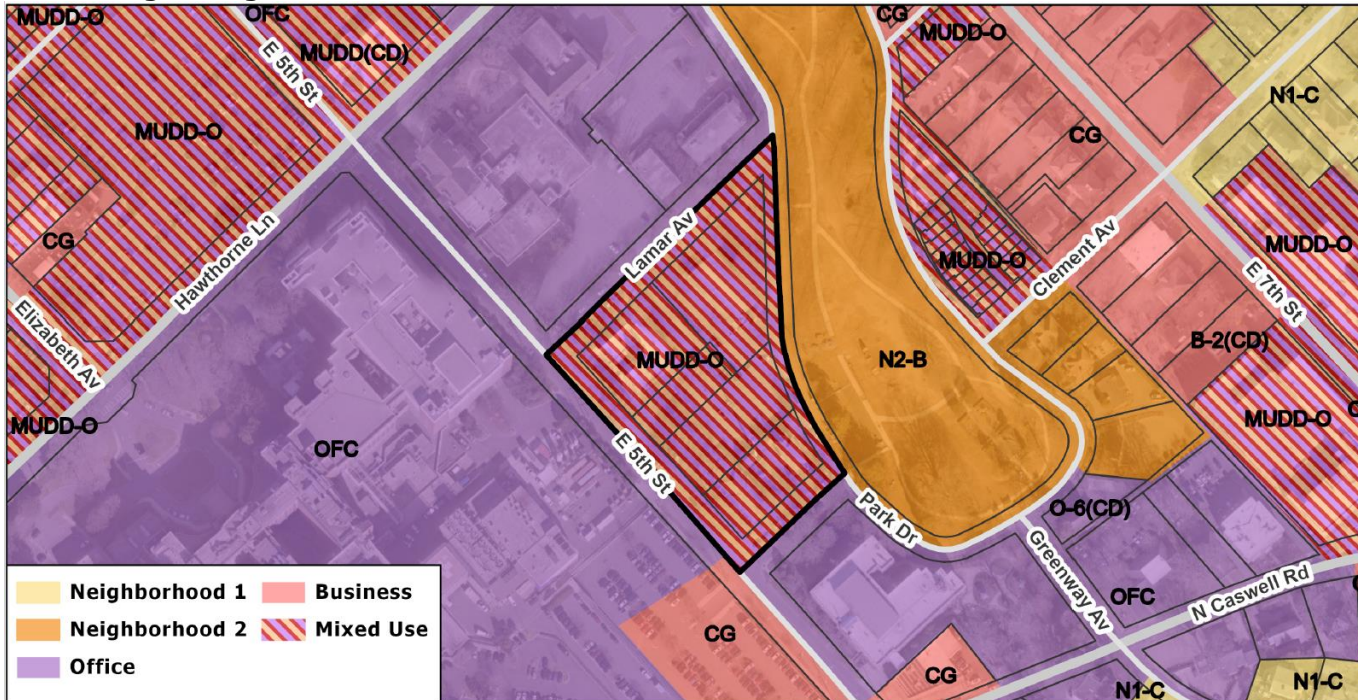
### • Proposed Request Details

The site plan amendment contains the following changes:

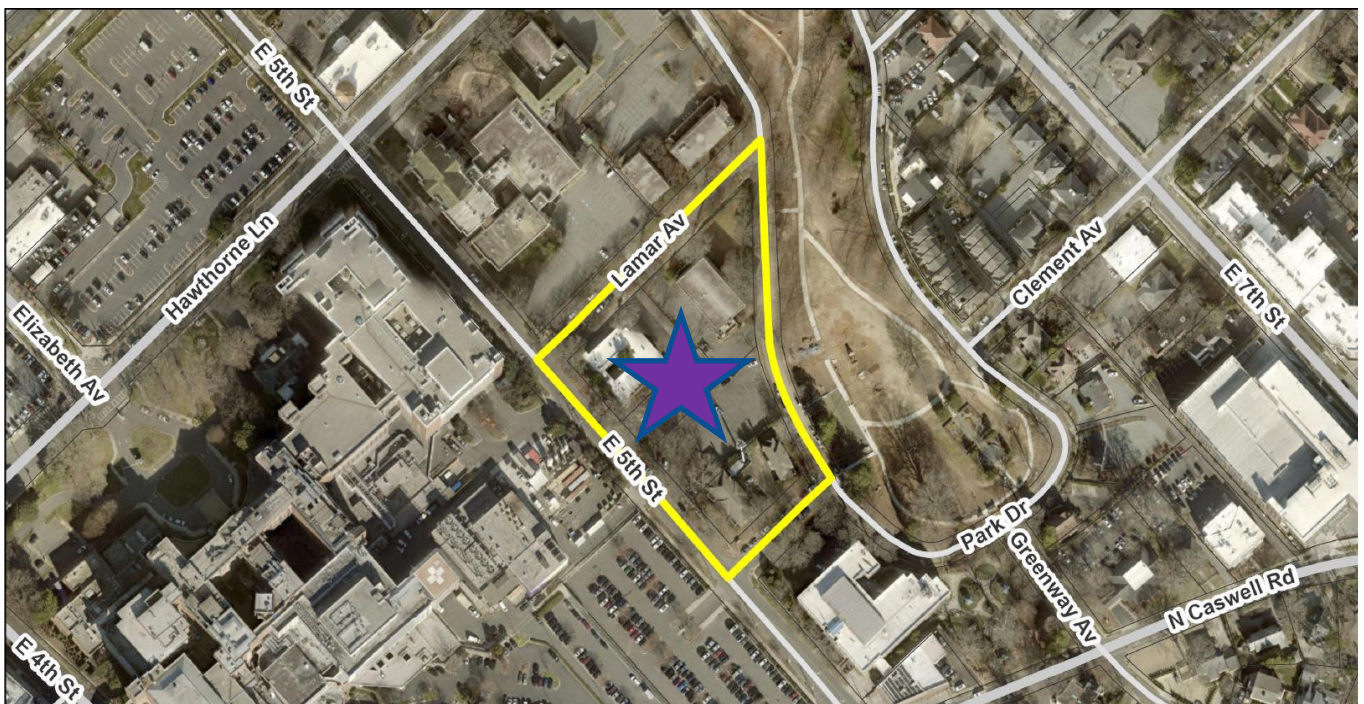
- Includes a health institution to the list of proposed uses.
- Adds the following note: iii. Health institution uses (specifically uses that involve patient admissions for 24 hours or more) shall be limited as follows:
  - a. No more than 40 beds, in the aggregate, that are dedicated to patients admitted inpatient overnight and/or for periods of 24 hours or more will be located in the building.
  - b. No tenant will provide general acute care to patients who are admitted inpatient overnight and/or for periods of 24 hours or more; the provisions of general acute care may only be provided to patients on an outpatient basis; the provision of specialized overnight and/or for periods of 24 hours or more is expressly permitted, only on the condition that it is one of the following uses:
    1. Physical rehabilitation performed by providers of cardiac and pulmonary rehabilitation services and the delivery of physical, occupational and/or speech therapy;
    2. Wound care;
    3. Infusion therapy;
    4. Orthopedic care;
    5. Post-surgical care and recovery programs; or
    6. Treatment of eating disorders.
  - c. Unless as permitted for the provision of services described in subsection (iii.b) above, no tenant shall:
    1. Operate a "hospital," as defined within Section 1861 of the Social Security Act and/or regulations promulgated in conjunction therewith;
    2. Seek, obtain or otherwise maintain licensure pursuant to the State of North Carolina's Hospital Licensure Act, N.C.G.S §131E-75, et seq, or as may be amended hereafter, provided, however, a tenant may operate an outpatient department, including a portion of a hospital operating as an outpatient department, that provides services on less than a 24-hour basis as in accordance in iii.b above. For example, operation of a surgery center or an imaging center are permitted uses.
    3. Authorize or allow any of its beds to be used for temporary services and/or temporary shelter in accordance with any emergency or disaster related waivers authorized by the North Carolina Division of Health Service Regulation, in accordance with N.C.G.S §131E-84, or as may be amended hereafter.
  - d. No tenant will provide services for the treatment of mental illness, including, without limitation, treatment of substance use disorders, treatment of chemical dependency, and/or any form of psychiatric treatment, to patients admitted inpatient overnight and/or for periods of 24 hours or more; provided, however, a tenant(s) may provide residential, partial hospitalization and/or outpatient treatment of eating disorders as a primary diagnosis, including to patients who receive treatment for periods of 24 hours or more as described in subsection (iii.b.6) above.
  - e. No tenant shall authorize or allow any of its beds to be used as a psychiatric beds or chemical dependency treatment beds except as permitted in b) and d) above.
  - f. No tenant shall operate an emergency department or dedicated emergency department, as that term is defined within 42 CFR §489.24(b), or as may be amended hereafter, provided, however, that a tenant may operate an urgent care center than provides services on a less than 24 hour

- basis except that no tenant shall seek or obtain licensure from the State of North Carolina as an emergency room or emergency department.
- Modifies transportation note to state all transportation improvements that are the responsibility of the Petitioner, shall be approved and constructed prior to the release of the first certificate of occupancy for the site subject to the Petitioner's ability to post a bond for any improvements not in place at the time of the issuance of the first certificate of occupancy, as approved by CDOT.
  - Adds the following transportation note: It is understood, 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. It is understood, an encroachment agreement must be approved by CDOT prior to construction/installation.
  - Labels travel lane widths on Clement and Lamar Avenues, E. 5<sup>th</sup> Street, and Park Drive.
  - Adds language under heading *Streetscape, Landscaping, Sidewalks & Tree Save* to note that the site shall comply with the tree ordinance and the sidewalk may meander to preserve trees. Identifies location on the site plan.
  - Adds the following note: In the event access is not provided through the building and onto Lamar as generally depicted, access may be provided to Park Drive. The exact location shall be subject to CDOT approval.
  - Retains the following entitlements:
    - Development Area A:
      - Up to 120,000 square feet of gross floor area to be devoted to office and/or medical office, uses with below grade parking.
      - Allows 3,500 square feet of rooftop event/gathering space (EDEE type 2) with accessory rooftop outdoor space.
      - Notes the hours of operation for event/gathering uses on the site shall be from 5:00 p.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 10:00 p.m. on weekends.
      - Outdoor music performances and amplified outdoor music is prohibited.
    - Development Area B: Allows structure parking (accessory to the principal building), a cell tower (to be relocated to on top of proposed parking structure), and up to 16 single-family attached (townhome style) residential units (either for sale or for rent).
    - Development Area C: Preserves as a minimum of three thousand (3,000) square feet of open space with improved landscaping and seating areas.
  - Limits residential uses to a maximum building height of 70 feet.
  - Limits non-residential uses to a maximum building height of 85 feet.
  - Limits total number of buildings on site to 2, not including the accessory parking structure.
  - Building elevations and renderings depicting the residential and non-residential uses, and public sidewalk connections renderings.
  - Retains development notes related to optional provisions, transportation commitments, streetscape, maximum building height, commitment to and architectural standards for the office and residential uses.
  - Modifies medical office area with optional below grade parking building footprint to illustrate "building line above" and "drive aisle below 2<sup>nd</sup> story".
  - Modifies Lamar Avenue elevation to note vehicle entrance.
  - Modifies elevations to call out architectural metal louver system and metal cladding on proposed structure parking.

• Existing Zoning



- The rezoning site is developed with offices, apartments, and parking area associated with Kings College. A cell tower is also located on the site. The site is surrounded by a mix office, retail, institutional, and park uses in various zoning districts. The site lies adjacent to Independence Park.
- Rezoning petition 2020-083 rezoned the subject site from R-43MF and O-2 to MUDD-O to allow for the mix of uses as previously described above.



The rezoning site (denoted by the purple star) is surrounded by a mix of institutional, office, residential, and park/open space uses and activities in various zoning districts.



The rezoning site (above and below pics) is developed with institutional/office buildings, parking, and a cell tower.

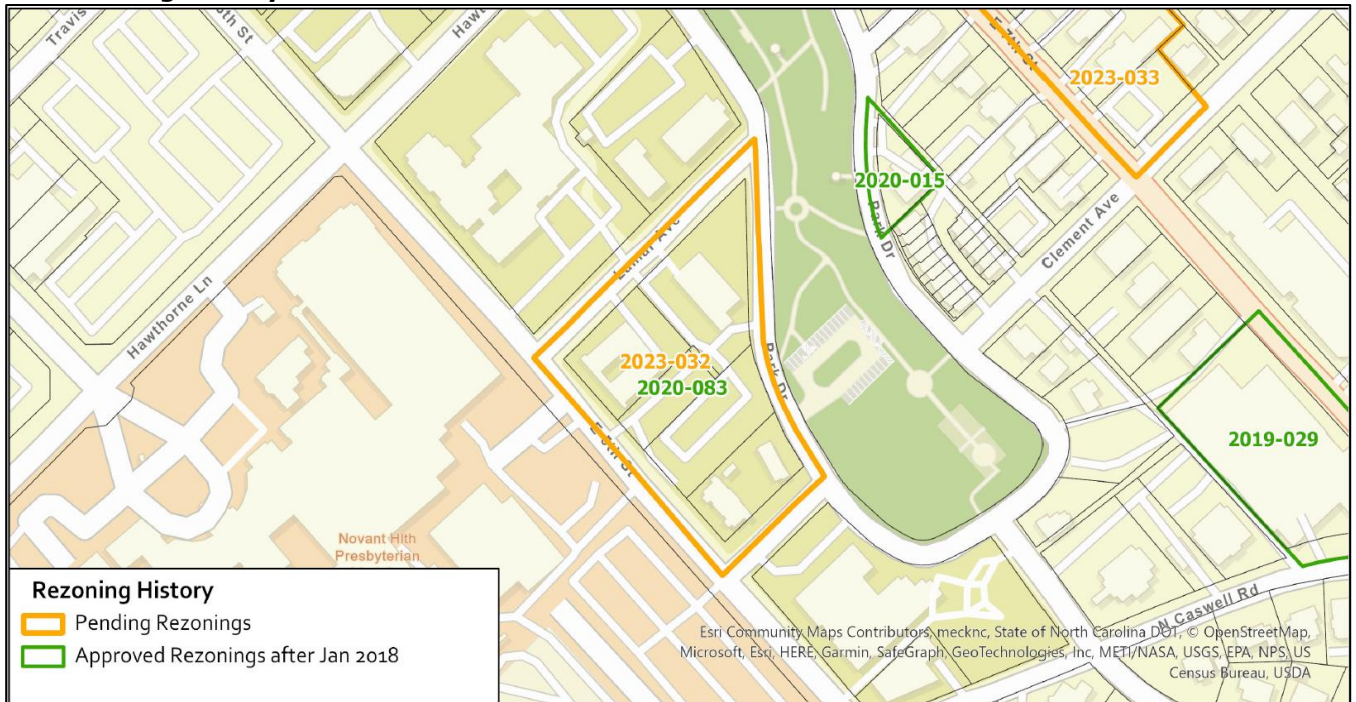


North are office buildings.



East are Independence Park, residential, office, and retail uses.

• **Rezoning History in Area**



Petition Number	Summary of Petition	Status
2023-033	Rezone 1.63 acres from CG to MUDD-O to allow 213 residential units and 5,600 sq ft of nonresidential uses.	Pending
2020-015	Rezoned 0.23 acres from R-43MF to MUDD-O to allow an office building with residential above.	Approved
2019-029	MUDD-O SPA for 1.68 acres amending the previously approved site plan to allow office and retail uses on the site and associated structured parking.	Approved

• **Public Plans and Policies**



- The 2040 Policy Map (2022) recommends the Campus Place Type for this site.

• **TRANSPORTATION SUMMARY**

The site is located at the intersection of Fifth Street, a City-maintained major collector, and Lamar Avenue, a City-maintained local street. A Traffic Impact Study (TIS) is not required for this site due to the proposed trip generation being consistent with the previously approved traffic study. The proposed site plan will generate the same vehicular trips as what is currently entitled under the existing conditional zoning. All outstanding CDOT comments have been addressed.

• **Active Projects:**

- CIP Elizabeth Bikeway Connection
  - Project ID PMES221723
  - Location: Several different locations In Elizabeth area
  - Project Description: Creating bike facilities in several different locations. To have safer conditions for bicyclists.
  - Project Type: Pedestrian and Bike
  - Project phase: Design
  - Anticipated Completion Date – Early 2025

• **Transportation Considerations**

- No outstanding issues.

• **Vehicle Trip Generation:**

Current Zoning:

Existing Use: 650 trips per day (based on 19,000 sq ft junior college; 15,060 sq ft office; 12 multi-family units).

Entitlement: 4,265 trips per day (based on 120,000 medical offices; 16 townhomes; 3,500 sq ft event gathering use – based on approved rezoning petition 2020-083).

Proposed Zoning: 4,265 trips per day (based on (based on 120,000 medical offices; 16 townhomes; 3,500 sq ft event gathering use – based on approved rezoning petition 2020-083).

**DEPARTMENT COMMENTS**

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Historic Landmarks:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
-

- **Charlotte-Mecklenburg Schools:** The development allowed under the existing zoning could generate 12 students, while development allowed under the proposed zoning may produce 3. Therefore, the net increase in the number of students generated from existing to proposed zoning may produce 0 students.
  - The proposed development is not projected to increase the school utilization over existing conditions (without mobile classroom units) as follows:
    - Eastover Elementary remains at 98%
    - Sedgefield Middle remains at 73%
    - Myers Park High remains at 125%.
- **Charlotte Water:** Charlotte Water has accessible water system infrastructure for the rezoning boundary via an existing 6-inch water distribution main located along Lamar Ave and an existing 6-inch water distribution main location along E 5th Street. Charlotte Water has accessible sanitary sewer system infrastructure for the rezoning boundary via an existing 8-inch gravity sewer main located along Winnifred St and an existing 8-inch gravity sewer main located E 5th St and an existing 8-inch gravity sewer main located along Park Drive. See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** See advisory comments at [www.rezoning.org](http://www.rezoning.org)
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** No outstanding issues.
- **Urban Forestry / City Arborist:** No outstanding issues.

#### **OUTSTANDING ISSUES**

##### Site and Building Design

1. ~~Clarify where is the previous Certificates of Need language and applicability to restricted uses listed under 3.a.iii.~~ **ADDRESSED**
2. ~~Petitioner added language to allow sidewalk to meander to preserve street trees. Please modify note 6.f. to clarify the area where the existing sidewalk will remain.~~ **Rescind.**

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**Additional information (department memos, site plans, maps etc.) online at [www.rezoning.org](http://www.rezoning.org)**

**Planner:** Claire Lyte-Graham (704) 336-3782