

REQUEST	Current Zoning: CC (commercial center) and R-3 (single family residential) Proposed Zoning: CC (commercial center) and CC SPA (commercial center, site plan amendment) with five-year vested rights
LOCATION	Approximately 33.84 acres located on the west side of Prosperity Church Road across from Ridge Road. (Council District 4 - Phipps)
SUMMARY OF PETITION	The petition proposes a multi-use use development consisting of up to 100,000 square feet of office, retail/commercial/personal services, eating, drinking and entertainment establishment uses, and up to 292 multi-family units.
PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE	Eason Family Properties, LLC, Judy Pretzel Eason, Ruth N. Tesh Halvorsen Development Corporation (Attention Tom Vincent) Keith MacVean/Jeff Brown, Moore & Van Allen
COMMUNITY MEETING	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 96
STATEMENT OF CONSISTENCY	<p>This petition is found to be consistent with the <i>Prosperity Church Road Villages Plan</i> and the draft <i>Prosperity Hucks Area Plan</i>, based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> • The proposed development decreases the number of residential units while allowing a slight increase in nonresidential development; and • The proposal provides an activity center with a mix of uses. <p>Therefore, this petition is found to be reasonable and in the public interest based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> • The <i>Prosperity Church Road Villages Plan</i> recommends a pedestrian-oriented mixed use activity center with residential, office, retail and/or institutional uses; and • The draft <i>Prosperity Hucks Area Plan</i> identifies this area as a pedestrian-oriented mixed use Activity Center intended to create highly integrated and walkable places, with a mix of uses to include retail/service, office, institutional and residential; and • The petition proposes a mix of retail and residential uses consistent with the current and draft plans; <p>By a 6-0 vote of the Zoning Committee (motion by Commissioner Ryan seconded by Commissioner Nelson).</p>

ZONING COMMITTEE ACTION	<p>The Zoning Committee voted 6-0 to recommend APPROVAL of this petition with the following modifications:</p> <ol style="list-style-type: none"> 1. Staff rescinded the request to provide a phasing plan that ties the certificates of occupancy for the large box retail to the street-front retail, and the certificate of occupancy for the multi-family units to the large box retail as the existing note is sufficient (Note 2H under Permitted Uses/Development Area Limitation/Transfer & Conversion Rights/and Certain Building Edge Treatment). 2. Removed all proposed signs as they will be permitted separately. 3. Amended Note 5(O) to state the following: "Petitioner reserves the right to reduce the CC district setback from 35 feet to 14 feet as allowed by the ordinance." 4. Staff rescinded the request to amend Note 2B to state "Development Areas A, C, D, F, and H may be developed with up to
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100,000 square feet of gross floor area of ~~uses permitted by-right and under prescribed conditions~~, office, retail, restaurant eating, drinking and entertainment establishments, and personal service uses, together with accessory uses as allowed in the CC zoning district" due to the addition of prohibited uses.

5. Amended development notes to change "restaurants" to "eating, drinking and entertainment establishments".
6. Amended Note 5H to read "Charlotte-Mecklenburg Planning Department."
7. Amended Note 5I to remove the unnecessary "s" from Development Areas A.
8. Provided a set of typical elevation drawings for each residential building type (multi-family, townhomes, and carriage units over garages) and the clubhouse building.
9. Amended Note 2E as follows: "...vehicular parking and maneuvering may not be located between the proposed building edge(s) and the street where the building edge(s) is indicated."
10. Amended Note 5C as follows: "At least one building within Development C will include a prominent architectural feature oriented toward the intersection of Ridge Road and Benfield Road. An entrance to the building will be provided from either Ridge Road, Benfield Road or at the corner of the building to complement the prominent architectural feature."
11. Added a note under Architectural Standards as follows: "Any permitted drive-through feature located in Development Area A and Development Area C will be incorporated into the building's design using the same architectural style, detailing, and materials palette as the primary building it serves."
12. Modified Note 5D to state "Retail buildings B and C shall have their primary exterior facades oriented toward proposed Public Street #1. The facades of these buildings facing proposed Public Street #1 must contain a total area of transparency of 60 percent or more of the wall area of the ground floor, measured between two to ten feet above the adjacent grade. The transparency area shall be composed of clear glass windows and doors, which may not be screened by films, decals or opaque materials, glazing finishes, or window treatments for the purpose of screening service area, merchandise, or secondary operational functions to the primary business. Each individual business within Retail Buildings B & C shall have an operable door facing proposed Public Street #1 and this door shall be treated equally as a public entrance of the business."
13. Amended Note 5G and building elevations to specify that Buildings #1, #2 and the townhome buildings within Development Area E will be designed so that the units on the ground floor facing Ridge Road and Public Street #1 will have:
 - i. an entrance from each unit to the abutting street; and
 - ii. vertical shaped windows with a height greater than their width.
14. Added Note 5R as follows: "The orientation of the building constructed in Development Area H may be adjusted to match the realignment of Prosperity Church Road. The new orientation must be submitted to the Planning Department staff for approval."
15. Added Note 6F stipulating that parking areas between Cardinal Point Road and Ridge Road may not occupy more than 35 percent of the total street frontage along each side of proposed Public Street #1 (on-street parking will not be calculated into this percentage).
16. Amended Note 8A to specify that the community green space shall contain a minimum area of 20,000 square feet of surface area.
17. Amended Note 11B to specify that the information on how much square footage has been constructed will be provided with each permitting submittal for any of the buildings located within Development Areas C, D, F, and H.
18. Deleted reference and label for "New Prosperity Church Road" and retained label as "Benfield Road."

19. Reflected on-street parking along the frontage on Prosperity Church Road.
20. Revised notes to provide a consistent reference to Proposed Public Street #1.
21. Specified that the community green space will be completed prior to the issuance of a final certificate of occupancy for any tenant located within Retail Building A, B, or C.
22. Amended Note 8C to delete the following verbiage: "The community green space will be located within the right-of-way of Public Street #1. The petitioner will enter into an agreement with the City of Charlotte to maintain the improved open space area once it has been constructed."
23. Staff rescinded the request to remove the last paragraph under Note 2B.
24. Amended note 2G to read as follows: "Prior to the issuance of a final certificate of occupancy for the building labeled "Major #1" on Sheet RZ-2, the three buildings labeled "Retail A, B and C" on sheet RZ-2 must have received a certificate of completion."
25. Staff rescinded the request to submit an administrative approval to reduce the development rights for the portion of the property that was included in rezoning 2001-070 but not included in this rezoning request.
26. Amended Note 4(lb) as follows: "Petitioner will install pedestrian refuge islands along the site's frontage on Ridge Road. The pedestrian refuge islands will include landscaping if the median in Ridge Road is of sufficient width."
27. The minimum driveway throat lengths have been modified to be 50 feet behind the stop line for minor street connections. Major street connections have 100 to 120-foot driveway throat lengths.
28. Amended Note 10B to delete the word "site."
29. Amended Note 2D to replace "restaurant" with "eating, drinking and entertainment establishment."
30. Added a note that the petitioner will be responsible for any traffic signal modification costs and necessary signal equipment easements on Ridge Road at Prosperity Church Road and Benfield Road when the subject site's final construction plan is approved by the City. Traffic signal modification costs and easements will be determined during the construction plan review process.
31. Amended Note 4(la) to add the following: "The petitioner shall complete the following improvements along the site's frontage along Ridge Road:
 - i. curb and gutter; and
 - ii. 31 feet of base course and surface course for additional improvements (the configuration of the on-street parking and pedestrian refuge islands to be determined in conjunction with CDOT during the Land Development approval process)."
32. Amended Note 2E to include the following as prohibited uses: Civic/social service and fraternal facilities, equipment rental and leasing, funeral homes/embalming, gas stations with or without convenience stores, government buildings, hotels and motels, gunsmiths, nurseries/greenhouses, outdoor recreation, religious institutions, repair or servicing of any article the sale of which is permitted in the district except that shoe repair and tailoring will be allowed, telephone booths, vocational schools, adult care centers, child care centers, donation drop-off facility, public utility structures, and land clearing and inert landfills on-site.
33. Added Note 5B as follows: "The residential buildings constructed within Development Area E will be constructed with at least 35 percent of the exterior of each building, exclusive of windows, doors and roofs, with brick, stone, precast stone or precast concrete."
34. Added new note 3B per staff's request as follows: "The determination of public/private street designation and the location of the proposed right-of-way if a public street, for Public/Private Street # 1 adjacent to the Community Green Space may be made during

the subdivision review and approval process for this Street/right of way."
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VOTE

Motion/Second:	Ryan/Sullivan
Yeas:	Dodson, Eschert, Labovitz, Nelson, Ryan, and Sullivan
Nays:	None
Absent:	Walker
Recused:	None

ZONING COMMITTEE DISCUSSION

Staff provided an overview of the existing land use policies and explained that while the *Prosperity Hucks Area Plan* process is still underway, draft recommendations for the activity center have been confirmed. Staff pointed out the proposed rezoning offers a decrease in the overall number of residential units by 182 units and an increase by 36,700 square feet for the commercial uses. It was also noted that the plan offers a diversity of residential types consisting of four-story multi-family buildings, carriage units over garages, and townhomes. The drive-through for the grocery store anchor has been incorporated into the function of the building and shops have been oriented toward open space.

A committee member stated that the number of residential units has been reduced and the proposed residential units are similar to those in the approved site plan, in terms of style and the intent to offer variety. Another committee member recognized concerns from citizens regarding the fact that the area plan process has not been finalized and opposition to the proposed number of rental units. That member offered that the land use recommendations for the activity center have already been established, and indicated that the current market is geared toward rental units, adding that this project offers residential units that are well integrated with the retail. It was added that the proposed mix of housing types offers opportunities for place making and achieves the spirit and intent of the area plan recommendations.

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

- **Background**

- The majority of the subject site was rezoned from R-3 (single family residential) to CC (commercial center) via petition 2001-070 as part of a larger 50.75-acre site. The petition allowed up to 50,700 square feet of retail, 33,300 square feet of office, 29,000 square feet of institutional uses, plus 204 apartment units, 16 second floor residential units over retail, 74 townhome units, 200 senior independent living units, and 22 single family detached dwellings, for a total of 522 dwelling units.

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Maximum of 100,000 square feet of retail/commercial/personal services and eating/drinking/entertainment uses.
- Maximum of 292 residential dwelling units, which may be detached, attached, duplex, triplex, or quadraplex units, or multi-family or any combination of these. The site plan shows these residential units as multi-family, townhomes and carriage units over garages.
- A minimum of three building types must be constructed within Area E (i.e. multi-family buildings, townhome buildings, carriage house buildings).
- Site consists of eight "Development Areas," identified as Areas A through H, and contains four outparcels located in Areas C, D, G, and H.
- The allowed 292 residential dwelling units are limited to Area E.
- Proposed wet detention pond areas located in Area B and Area G.

- Up to three accessory drive-through windows allowed in Development Areas A, C, D, F and H. Only one eating/drinking and entertainment use may have an accessory drive-through window and it may be located in Development Area F or H.
- Prohibited uses as follows: gas stations, with or without a convenience store, civic/social service and fraternal facilities, equipment rental and leasing, funeral homes/embalming, government buildings, hotels and motels, gunsmiths, nurseries/greenhouses, outdoor recreation, religious institutions, repair or servicing of any article the sale of which is permitted in the district except that shoe repair and tailoring will be allowed, telephone booths, vocational schools, adult care centers, child care centers, large child care centers, donation drop-off facility, public utility structures, and land clearing and inert landfills on-site.
- Access provided from Ridge Road, Prosperity Church Road, Cardinal Point Road, and Benfield Road.
- Total number of principal buildings developed for commercial uses not to exceed ten.
- Total number of buildings developed for residential uses not to exceed 19.
- **Architectural and Site Design Standards**
 - Building materials include glass, brick, stone, pre-cast stone, precast concrete, synthetic stone, stucco, cementitious siding, EIFS or wood. Vinyl as a building material is prohibited except on windows, soffits and handrails/railings. The use of EIFS will be limited to commercial buildings.
 - Site designed to provide building edges within portions of Development Areas A, C, D, E, F and H such that vehicular parking and maneuvering may not be located between the proposed buildings edge(s) and the street where the building edge(s) is indicated. Plaza/outdoor dining areas will be considered part of the building for the purpose of complying with this provision.
 - A prominent architectural feature oriented toward the intersection of Ridge Road and Benfield Road will be provided on at least one building constructed in Development Area C. An entrance to the building will be provided from either Ridge Road, Benfield Road or at the corner of the building to complement the prominent architectural feature.
 - Retail buildings located within Development Areas B and C shall have their primary exterior facades oriented toward proposed Public/Private Street #1. The facades of these buildings facing Proposed/Private Street #1 must contain a total transparency of 60 percent or more of the wall area of the ground floor measured between two to ten feet above the adjacent grade. The transparency area shall be composed of clear glass windows and doors. Each individual business within Retail Buildings B and C shall have an operable door facing Proposed Public/Private Street #1, which shall be treated equally as a public entrance for the business. In addition to any doors/access located on the parking lot side of Retail Buildings A, B and C, these Retail Shops A, B and C will also have operable doors oriented toward Proposed Public/Private Street #1.
 - Building #1, 2 and the townhome buildings within Development Area E will be designed so that ground floor units facing Ridge Road and Public/Private Street #1 will have:
 - a) an entrance from each unit to the abutting street; and
 - b) vertical shaped windows with a height greater than the width.Building façades facing these streets will provide windows and doors for a minimum of 25 percent of the total façade area. The maximum contiguous area without windows or doors on any floor shall not exceed 10 feet in height or 20 feet in length.
 - Building elevations for proposed commercial development identified as Major #1 in Development Area A, and typical elevation drawings for each residential building type (multi-family, townhomes, and carriage units over garages) and the clubhouse building.
 - Any permitted drive-through located in Development Area A and Development Area C will be incorporated into the building's design using the same architectural style, detailing, and materials palette as the primary building it serves.
 - The orientation of the building constructed in Development Area H may be adjusted to match the realignment of Prosperity Church Road. The new orientation must be submitted to the Planning Department staff for approval.
 - Residential buildings constructed within Development Area E will be constructed with at least 35 percent of the exterior of each building, exclusive of windows, doors and roofs, with brick, stone, precast stone or precast concrete.
- **Transportation**
 - A portion of the existing right-of-way along Prosperity Church Road will no longer be needed due to realignment of the road. Petitioner will seek to abandon this portion and incorporate it into Development Area H.
 - Petitioner will provide curb and gutter, as well as base and surface course, for two additional lanes including a six-foot wide bicycle lane and on-street parking, eight-foot planting strip, and six-foot sidewalk along the site's frontage on Ridge Road. Traffic signal timing modifications at

- the intersection of Ridge Road with Benfield Road and Prosperity Church Road will be completed if necessary to coincide with petitioner's improvements.
- Two pedestrian refuge islands will be installed by the petitioner along the site's frontage on Ridge Road, which will include landscaping if the median in Ridge Road is of sufficient width.
 - On-street parking to be provided along the frontage on Prosperity Church Road.
 - Petitioner will be responsible for any traffic signal modification costs and necessary signal equipment easements on Ridge Road at Prosperity Church Road and Benfield Roads when the subject site's final construction plan is approved by the City. Traffic signal modification costs and easements will be determined during the construction plan review process.
 - The petitioner shall complete the following improvements along the site's frontage along Ridge Road: (a) curb and gutter; (ii) 31 feet of base course and surface course for additional improvements (the configuration of the on-street parking and pedestrian refuge islands to be determined in conjunction with CDOT during the Land Development approval process).
 - The determination of public/private street designation and the location of the proposed right-of-way if a public street, for Public/Private Street # 1 adjacent to the Community Green Space may be made during the subdivision review and approval process for this street/ right-of-way.
- **Site Design, Open Space, and Pedestrian Connectivity**
 - Service areas in Development Area A will be screened from the extension of Cardinal Point Road with landscaping and walls, or landscaping and berms designed to complement the building architecture of the adjacent buildings.
 - A masonry wall that will be a minimum of two feet and will not exceed two and a half feet in height, and low accent plantings will be provided in Development Areas C and D between Ridge Road and parking areas, and maneuvering for drive-through lanes.
 - A sidewalk and crosswalk network linking all buildings on the site with one another will be provided along the site's internal private streets.
 - A pedestrian plaza designed as a pedestrian focal point and amenity for the overall development will be located within Development Area E.
 - A portion of the area abutting the water quality/storm water detention pond located in Area G will be improved as an amenity area with landscaping and seating areas.
 - A community green space to be located between Development Area E and Area A will be designed as a pedestrian focal point and development amenity. Community green space shall contain a minimum area of 20,000 square feet of surface area.
 - A 22.5-foot wide Class "B" buffer will be provided abutting single family residential zoning.
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 - Parking areas between Cardinal Point Road and Ridge Road may not occupy more than 35 percent of the total street frontage along each side of proposed Public Street #1 (on-street parking will not be calculated into this percentage).
 - Pedestrian refuge islands to be installed along the site's frontage on Ridge Road. The pedestrian refuge islands will include landscaping if the median in Ridge Road is of sufficient width.
 - **Other**
 - Construction plans and building elevations for Development Areas A, C, D, F and H must be submitted to the Planning Department for review for compliance with architectural requirements and approval prior to the issuance of a building permit for any building located within these areas.
 - Certificate of occupancy for building labeled Major #1 contingent upon receipt of a certificate of completion for Retail Buildings A, B and C. Certificate of occupancy for more than 225 residential units contingent upon receipt of a certificate of occupancy for at least 35,000 square feet of nonresidential uses.
 - Detached lighting limited to 20 feet in height.
 - Construction of a CATS shelter pad along Ridge Road.
 - Request for five-year vested rights.
 - Petitioner to track and keep a tally of the amount of nonresidential square footage constructed within each development area and that information will be provided with each permitting submittal for any of the buildings located within Retail Building A,B or C.
 - **Public Plans and Policies**
 - The *Prosperity Church Road Villages Plan* (1999) was amended by a prior rezoning for the property, rezoning petition 2001-070. The conditional plan called for a multi-use development including retail, office, institutional, and residential uses.
 - Specifically, for the area north of Ridge Road and east of proposed Public Street #1, the *Prosperity Church Road Villages Plan*, as amended by rezoning petition 2001-070, calls for a

mix of residential uses to consist of 204 multi-family units, approximately 35 townhome units, and between five and ten single family homes. The proposed rezoning site plan shows 292 multi-family units on this site. The rezoning site plan also added a 1.4-acre tract to the area covered by the original rezoning.

- For the area north of Ridge Road and west of proposed Public Street #1, the *Prosperity Church Road Villages Plan*, as amended by rezoning petition 2001-070, calls for approximately 40 townhome units and 20 single family homes. The proposed rezoning site plan shows most of the commercial square footage to be located in this area; the total commercial square footage requested for the entire site is 100,000 square feet.
- For the area south of Ridge Road, the *Prosperity Church Road Villages Plan*, as amended by rezoning petition 2001-070, calls for a 29,000-square foot library/institutional use, 50,700 square feet of retail, and 200 independent living/multi-family units. To date, approximately 34,000 square feet of retail has been constructed. (Note: The library/institutional site, approximately half of the independent living/multi-family units and the existing 34,000 square feet of retail are outside of the area included in this rezoning.) For the part of this area that is included in the rezoning, the site plan shows a small portion of the total 100,000 square feet of commercial uses requested for this site.
- The amount of retail in the petition north of Ridge Road is inconsistent with the *Prosperity Church Road Villages Plan* as amended by the rezoning. The residential element is generally consistent with the *Prosperity Road Villages Plan* as amended by the rezoning in terms of the location and overall number of dwelling units in the larger area.
- The draft *Prosperity Hucks Area Plan* is an update to the *Prosperity Church Road Villages Plan (1999)* and identifies this area as a pedestrian-oriented mixed use Activity Center intended to create highly integrated and walkable places.
 - Based on the draft plan, the subject site is in a pedestrian-oriented mixed-use Activity Center. Appropriate uses include a mix of residential, office, retail, and/or institutional, designed with building entrances directly on sidewalks along the street frontages; and parcels greater than five acres are to include a mix of two or more uses.
 - Over the past six months, staff has provided several community input opportunities designed to identify refinements to the *draft Prosperity Hucks Area Plan*, focused on the land use and community design recommendations for the Activity Center. A Community Workshop was held September 16th to 17th, 2014 with proposed refinements presented to the public on September 23rd. The proposed refinements to land use and design recommendations in the draft area plan are outlined in the *Community Workshop Summary Memorandum*, available in the *Prosperity Hucks Area Plan* page on www.charlotteplanning.org.
 - The proposed rezoning is consistent with the draft area plan and proposed refinements, as it provides a balanced mix of retail/commercial and residential uses, includes a variety of residential building types, incorporates open/green space and is designed to be walkable. The proposed rezoning has retail and residential elements mixed horizontally and designed around a common open space; it also has a mix of townhome and carriage home unit types in addition to apartment buildings.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Transportation:** No issues.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** No issues.
- **Charlotte-Mecklenburg Storm Water Services:** No issues.
- **Charlotte-Mecklenburg Utilities:** No issues.
- **Engineering and Property Management:** No issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
- **Mecklenburg County Parks and Recreation Department:** No issues.
- **Urban Forestry:** No issues.

ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:** The following explains how the petition addresses the environmentally sensitive site design guidance in the *General Development Policies-Environment*.
 - This site meets minimum ordinance standards.
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OUTSTANDING ISSUES

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

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Charlotte Area Transit System Review
- Charlotte Department of Neighborhood & Business Services Review
- Transportation Review
- Charlotte Fire Department Review
- Charlotte-Mecklenburg Schools Review
- Charlotte-Mecklenburg Storm Water Services Review
- Charlotte-Mecklenburg Utilities Review
- Engineering and Property Management Review
- Mecklenburg County Land Use and Environmental Services Agency Review
- Mecklenburg County Parks and Recreation Review
- Urban Forestry Review

Planner: Sonja Sanders (704) 336-8327