

<b>REQUEST</b>	Current Zoning: UR-2(CD) (urban residential, conditional) and NS (neighborhood services) Proposed Zoning: NS(SPA) (neighborhood services, site plan amendment) and NS (neighborhood services)
<b>LOCATION</b>	Approximately 1.63 acres located on the northeast corner of Ridge Road and Prosperity Church Road. (Council District 4 - Phipps)
<b>SUMMARY OF PETITION</b>	The petition proposes the development of a vacant parcel in the Prosperity area with up to 5,000 square feet of eating/drinking/entertainment (EDEE) uses or other commercial uses.
<b>PROPERTY OWNER PETITIONER AGENT/REPRESENTATIVE</b>	The Gulleage Family, LLC Halvorsen Development Corporation Jeff Brown, Keith MacVean, & Bridget Dixon, Moore & Van Allen
<b>COMMUNITY MEETING</b>	Meeting is required and has been held. Report available online. Number of people attending the Community Meeting: 25.
<b>STATEMENT OF CONSISTENCY</b>	<p>The Zoning Committee found the allowed uses consistent with the <i>Prosperity Hucks Area Plan</i>; however, the petition inconsistent with the specific recommendations of the plan, based on information from the staff analysis and the public hearing, and because:</p> <ul style="list-style-type: none"> <li>• The plan recommends a mix of uses including retail/service, office, institutional, and residential for the area in which the site is located; and</li> <li>• The plan contains specific recommendations to create a pedestrian oriented mixed-use center in the area.</li> </ul> <p>However, this petition was 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"> <li>• There needs to another restaurant or food facility in the immediate vicinity; and</li> <li>• This particular site plan is conducive to have some walk-in traffic; and</li> <li>• The plan creates outdoor spaces for people to use.</li> </ul> <p>By a 4-2 vote of the Zoning Committee (motion by Wiggins seconded by McClung).</p>

<b>ZONING COMMITTEE ACTION</b>	<p>The Zoning Committee voted 4-2 to recommend <b>APPROVAL</b> of this petition with the following modifications:</p> <p><u>Site and Building Design</u></p> <ol style="list-style-type: none"> <li>1. Provided crosswalks on the northern and eastern legs of the intersection of Ridge Road and Prosperity Church Road.</li> <li>2. Provided pedestrian curb ramps at the intersection of Old Ridge Road and Prosperity Church Road and at the intersection of Old Ridge Road and Ridge Road. Crosswalks will not be provided because there are not connecting sidewalks along Prosperity Church Road and Ridge Road.</li> <li>3. Amended the site plan to show the setbacks measured from the future back-of-curb along all street frontages.</li> <li>4. Renamed "Retaining Wall Perspectives" because the graphics do not appear to show any retaining walls and titled them "Site Exterior Wall Perspectives" and "Site Exterior Perspectives."</li> <li>5. Amended the elevations to provide a legend to explain what the various items mean.</li> <li>6. Provided Ordinance required five-foot wide screening between the parking and drive-through lanes and the proposed sidewalk along</li> </ol>
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Old Ridge Road.

7. Removed the Executive Summary on the "Perspective Views" and annotated the perspectives with the architectural commitments made in notes 4B, C, and F.

#### Transportation

8. Revised the site plan to show and label the proposed back of curb at 23.5 feet with on-street parking from the existing centerline of Prosperity Church Road.
9. Revised 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 prefers right-of-way dedication from street's centerline to two feet behind back of sidewalk. Alternatively, CDOT will accept right-of-way at back-of-walk or sidewalk utility easement two feet behind back-of-walk. Revised Note 3J accordingly.
10. Clarified the meaning of "negatively impacted" in transportation note 3C related to the cooperation in the event of abandonment of Old Ridge Road by adding that the intent is to provide the petitioner with the opportunity to evaluate any proposed abandonment to assure that abandonment does not create a situation or road configuration that creates a hardship on the operation of the property or eliminate a driveway connection.
11. Widened the proposed driveway to Old Ridge Road from 28 feet to 30 feet to accommodate separate left and right out turning movements.
12. Staff rescinded the request to remove the driveway on Prosperity Church Road because the petitioner revised the site plan to modify the site's proposed driveway on Prosperity Church Road to a channelized right-in only driveway and removed the raised median that created a "kink" in the northbound alignment.
13. Revised the site plan to show and label the proposed back of curb at 18.5 feet in the areas without on-street parking from the existing centerline of Prosperity Church Road.
14. Deleted last portion in parenthesis of note 3G related to pedestrian crossing signals because the condition is not acceptable to CDOT and will be determined during permitting.
15. Added a note to the site plan that "The petitioner will provide a 10-foot wide, 50-foot northbound Prosperity Church Road left turn storage lane with appropriate bay taper."
16. Revised note 3D to remove right-out language.
17. Added note to identify that site will accommodate proper through lane alignment (to be determined during permitting) along Ridge and Prosperity Church frontages widening.

#### **REQUESTED TECHNICAL REVISIONS**

##### Site and Building Design

18. Amended note 4D related to the service side of the building to change "may not" to "shall not."
19. Added a sentence to note 4E related to the open space areas to clarify that the pocket park/plaza areas will be on private property, publically accessible and maintained by the property owner or tenant(s).
20. Specified that low screen walls will be no less than 3.5 feet.
21. Broke note 6B into two notes: one related to compliance with the Tree Ordinance and the other stating the site will comply with the Post Construction Controls Ordinance.

##### Land Use

22. Removed Professional business from the proposed uses under development data on RZ-1 and 2 and the permitted uses note 2A as it is not a use listed in the Zoning Ordinance.

#### **VOTE**

Motion/Second: Wiggins / McClung  
 Yeas: Majeed, McClung, Watkins, Wiggins  
 Nays: Fryday, Spencer

Absent: None  
 Recused: Lathrop

## **ZONING COMMITTEE DISCUSSION**

Staff provided a summary of the petition and noted the changes made to the petition since the public hearing. Planning staff explained that the petitioner had addressed most of the remaining issues listed in the Zoning Committee agenda. There were two outstanding issues related to the use and building frontage that remained unresolved and the petitioner had provided a response saying they would not be able to resolve them.

One transportation issue related to the removal of the driveway on Prosperity Church Road remained based on the petitioner's responses. However, during the meeting CDOT staff explained that petitioner had modified the driveway to a right-in only drive and removed the "kink" in the road and these changes resolved the issue.

Planning staff stated that use was consistent with the adopted land use plan but the petition did not meet the plans recommendations for creating a pedestrian oriented mixed-use center.

A commissioner commented that the petitioner has positioned the building at the corner to accommodate walkability. Additionally, the store front and parking are separate from the drive through also lending to walkability. The petitioner is also providing outside open space that can be used as community gathering space. Lastly, the property across Old Ridge Road is vacant and when it is developed and could add to the community gathering space.

A commissioner asked CDOT what the plans were for future street development. CDOT responded that the City and private development have already made a lot of improvements in the area including Benfield Road and Ridge Road. The petitioner is providing improvements to align Ridge Road at Prosperity Church Road intersection and the petitioner has agreed to work with CDOT and the neighboring property in the event of the planned abandonment of Old Ridge Road. A commissioner noted that there was not a lot of walking in the area and asked if Old Ridge Road would be widened. CDOT explained that it would not be widened and reiterated that the long term plan was to abandon Old Ridge Road. CDOT also stated the petitioner is providing left turn lanes on Prosperity Church Road at Old Ridge Road in addition to a number of other transportation improvements.

A commissioner noted that the area needs other eating establishments. The commissioner noted that the double drive through lanes is a good solution to handle the traffic and that in their research they found customers would park and come in and stay at the restaurant.

One commissioner stated they felt the proposal did not support the walkability for the area and another commissioner agreed. That the City has to support plans that promote walkability if we expect land use plans to succeed in creating the pedestrian oriented area. The commissioner asked how often the City makes exceptions to enforce commitment to walkability. Planning staff stated that it can depends on the context but in areas that are focused for planned walkability such as in transit stations staff has stood plan the plan's recommendations.

There was no further discussion.

## **MINORITY OPINION**

We find this petition to not be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because:

The area is the product of intentional planning and public investment over the last 20 years including:

- Area planning with the Prosperity Church Road Village Plan (1999) followed by the Prosperity Hucks Area Plan (2015); and
- New interchanges designed to improve connectivity and to

- encourage the creation of a pedestrian oriented town center; and
- New city streets designed to create an interconnected and walkable block pattern; and
- New community investment through the Comprehensive Neighborhood Improvement Project (CNIP); and

The proposed development is inconsistent with the creation of a compact, pedestrian-oriented mixed use center because of the:

- Scale of the drive-through and parking area and driveway access on Prosperity Church Road.

#### **STAFF OPINION**

Staff disagrees with the recommendation of the majority of the Zoning Committee.

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### **FINAL STAFF ANALYSIS** (Pre-Hearing Analysis online at [www.rezoning.org](http://www.rezoning.org))

#### **PLANNING STAFF REVIEW**

- **Proposed Request Details**

The site plan accompanying this petition contains the following provisions:

- Allows one building, up to 5,000 square feet to be developed on the site.
- Allows the following uses: retail, eating/drinking/entertainment establishments, personal service, general office and medical office. Prohibits automotive service stations with or without a convenience store.
- Only one use with an accessory drive-through window will be allowed on the site and designed so that maneuvering and access will not occur between the building and Ridge Road or Prosperity Church Road.
- Provides access to the site via a right-in drive on Prosperity Church Road and full movement drive on Old Ridge Road. Access to Ridge Road is not allowed.
- Commits that petitioner will cooperate with the City and/or the property owner of the adjoining property to the northeast to re-align/reconfigure the proposed driveway to Old Ridge Road should the alignment be changed. Commits to cooperating in the abandonment and closure of the existing alignment of Old Ridge Road to facilitate redevelopment of the adjoining property provided the petitioner can maintain access to the site from a street that replaces Old Ridge Road and the use is not negatively impacted. Agrees to consider, in the event of abandonment, the portion of Old Ridge Road that would become part of the site to be conveyed and become part of the adjoining property.
- Commits to the construction of a southbound and northbound left turn lanes on Prosperity Church Road at Old Ridge Road, the milling and restriping of Ridge Road and Prosperity Church Road, and the provision of a CATS waiting pad along Prosperity Church Road.
- Provides crosswalks on the northern and eastern legs of the intersection of Ridge Road and Prosperity Church Road and provides pedestrian curb ramps at the intersection of Old Ridge Road and Prosperity Church Road and at the intersection of Old Ridge Road and Ridge Road.
- Specifies building materials and provides building elevations. States that the building will be located at the corner of the intersection of Ridge Road and Prosperity Church Road. Building walls along Ridge Road and Prosperity Church Road will be designed to have store fronts with clear glass facing each street and the building will be designed to have the appearance of a two-story building.
- Commits to providing open and operable building entrances that orient and connect to the sidewalk system along Prosperity Church Road and Ridge Road. If there is more than one tenant then each establishment will have an entrance abutting the street with an operable door, open during business hours.
- Stipulates that the service side of the building will not be oriented to Ridge Road or Prosperity Church Road.
- Commits to provide three improved open space areas: one located between the building and Ridge Road to be used for outdoor dining; another at the intersection of Prosperity Church Road and Old Ridge Road; and the third at the intersection of Ridge Road and Old Ridge Road.
- Screens the proposed parking and drive-through service area with a decorative low wall along Prosperity Church Road and Ridge Road and provides Ordinance required screening along Old Ridge Road.

- **Public Plans and Policies**

- The *Prosperity Hucks Area Plan* (2015) recommends a mixture of land uses including retail/

service, office, institutional, and residential. The intent is to create highly integrated and walkable places with a mix of uses and a focus on retail, restaurants, and community gathering space. Commercial uses are intended to provide for vital street-oriented activity within the area. Drive-through facilities are noted as not appropriate beyond approvals already in place.

- Community Design elements of the area plan recommend that development should be compact, pedestrian-oriented, and well-connected internally and to surrounding development; and that new buildings should be oriented toward streets with the majority of parking located to the side or rear of buildings.
  - The Mobility section of the plan calls for the abandonment and removal of Old Ridge Road, with a new replacement street network in a grid-like form. The plan also recommends completion of improvements to Prosperity Church Road and Ridge Road and provision for additional mid-block pedestrian crossings along Ridge Road where appropriate.
  - The Open Space section of the plan calls for the incorporation of plazas, gazebos, courtyards, fountains and play areas into new development. The design should maximize common or shared access and encourage outdoor dining, socializing and gatherings and connect open space areas to existing and planned greenways and open spaces to create an area-wide network.
- **TRANSPORTATION CONSIDERATIONS**
- The site is located at the signalized intersection of a minor and a major thoroughfare. While the proposed parcel does not conform to the street network as envisioned by the area plan and existing conditional plan, the current site plan commits to conforming to the future condition as further development occurs on the adjacent site. The current site plan also commits to the envisioned cross sections for Ridge Road and Prosperity Church Road. Although the petitioner is proposing a driveway along the Prosperity Church Road frontage the petitioner has designed the driveway to be right-in only, reducing its impact on the pedestrian and bicycle environment along the thoroughfare and congestion for the nearby signalized intersection.
  - No issues.
  - **Vehicle Trip Generation:**
    - Current Zoning:
      - Existing Use: 0 trips per day (based on vacant land).
      - Entitlement: 2130 trips per day (based on a 14,820-square foot drug store and 4,500-square foot bank, each with accessory drive-through windows. Note: These entitlements are only possible if Old Ridge Road is abandoned).
    - Proposed Zoning: 2480 trips per day (based on 5,000-square foot EDEE with drive-through. Note: These entitlements are possible if Old Ridge Road is abandoned or if it remains).

**DEPARTMENT COMMENTS** (see full department reports online)

- **Charlotte Area Transit System:** No issues.
- **Charlotte Department of Neighborhood & Business Services:** No issues.
- **Charlotte Fire Department:** No issues.
- **Charlotte-Mecklenburg Schools:** Non-residential petitions do not impact the number of students attending local schools.
- **Charlotte Water:** Charlotte Water has water system availability for the rezoning boundary via an existing eight-inch water distribution main located at the intersection of Ridge Road and Prosperity Church Road. Charlotte Water has sewer system availability for the rezoning boundary via an existing eight-inch gravity sewer main located along Ridge Road.
- **Engineering and Property Management:**
  - **Arborist:** No issues.
  - **Erosion Control:** No issues.
  - **Land Development:** No issues.
  - **Storm Water Services:** No issues.
  - **Urban Forestry:** No issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments received.
- **Mecklenburg County Parks and Recreation Department:** No issues.

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**OUTSTANDING ISSUES**

Land Use

1. Amend the site plan to prohibit eating/drinking/entertainment establishments with accessory

drive-through service windows

Site and Building Design

2. Revise the proposed building to have a greater amount of street frontage to support the desired pedestrian environment.
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**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Pre-Hearing Staff Analysis
- Locator Map
- Site Plan
- Community Meeting Report
- Department Comments
  - Charlotte Area Transit System Review
  - Charlotte Department of Neighborhood & Business Services Review
  - Charlotte Fire Department Review
  - Charlotte Water Review
  - Engineering and Property Management Review
    - City Arborist Review
    - Erosion Control
    - Land Development
    - Storm Water
    - Urban Forestry
  - Mecklenburg County Parks and Recreation Review
  - Transportation Review

**Planner:** John Kinley (704) 336-8311