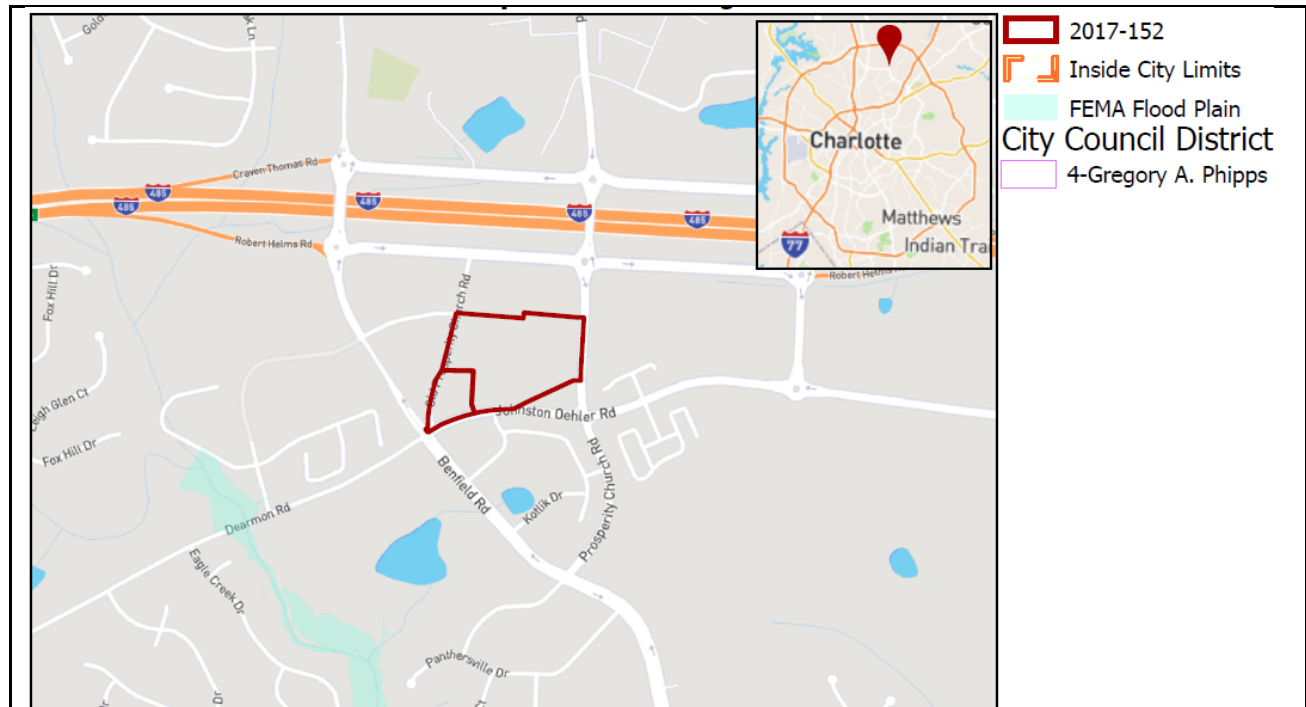


**REQUEST**

Current Zoning: NS (neighborhood services)  
 Proposed Zoning: MUDD-O (mixed use development, optional)

**LOCATION**

Approximately 8.914 acres location on the north side of Johnston Oehler Road, east of Docia Crossing Road and west of Prosperity Church Road.  
 (Council District 4 - Phipps)



**SUMMARY OF PETITION**

The petition proposes the reuse of an existing building, formerly a grocery store, for a movie theater or other uses as permitted in the MUDD zoning district, and allows the complete build out of the previously approved commercial center called Prosperity Park in the Prosperity area south of I-485.

**PROPERTY OWNER**

Lockard Midland Square, LLC, Midland Tower Properties, LLC, and Lockard Development, Inc. as tenants in common.

**PETITIONER**  
**AGENT/REPRESENTATIVE**

Lockard Development, Inc.  
 Bryan P. Durrett

**COMMUNITY MEETING**

Meeting is required and has been held. Report available online.  
 Number of people attending the Community Meeting: 33.

**STAFF**  
**RECOMMENDATION**

Staff recommends approval of this petition.

Plan Consistency

The proposed retail and movie theater land uses are consistent with the adopted land use; however, the largest existing building's form is inconsistent with the community design guidelines, which call for buildings at the street edge and parking behind.

Rationale for Recommendation

- The property is located in the activity center, south core area of Prosperity Village for which connected and street-oriented retail and employment uses are recommended.
- The proposed development maintains and reuses an existing retail building within the shopping center. While this building's form

does not meet the plan's long-term vision of street-oriented buildings, the proposed use allows an appropriate and sought-after entertainment focus that contributes to the intention for the mixed-use activity center.

- The proposal allows for the build-out of other elements of the shopping center in a manner generally consistent with the plan's vision, including the extension of Prosperity Crossing Road and new street-oriented development along Prosperity Church Road and Prosperity Crossing Road.
- The proposal provides commitments that all future development of the site will conform to the plan's vision to focus on the pedestrian with buildings pulled up to the street.
- Previously approved commitments (per petition 1997-051) to open space and building orientation that support the land use plan goals are maintained.

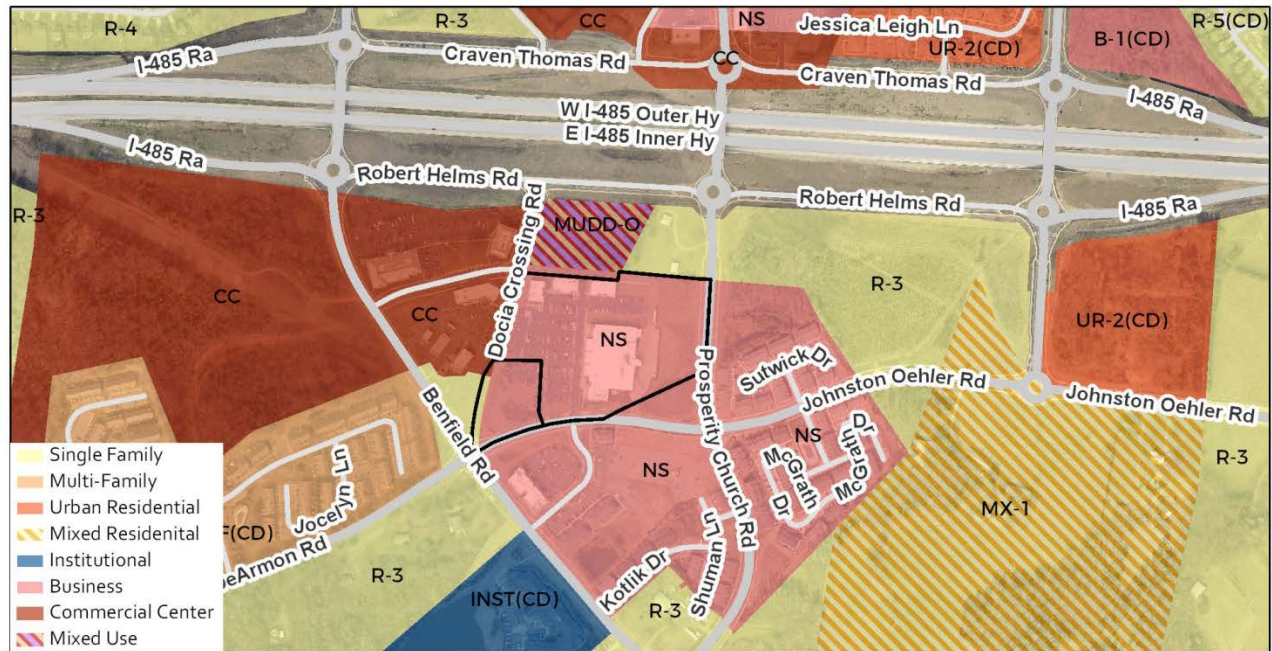
## PLANNING STAFF REVIEW

### • Proposed Request Details

The site plan accompanying this petition contains the following provisions:

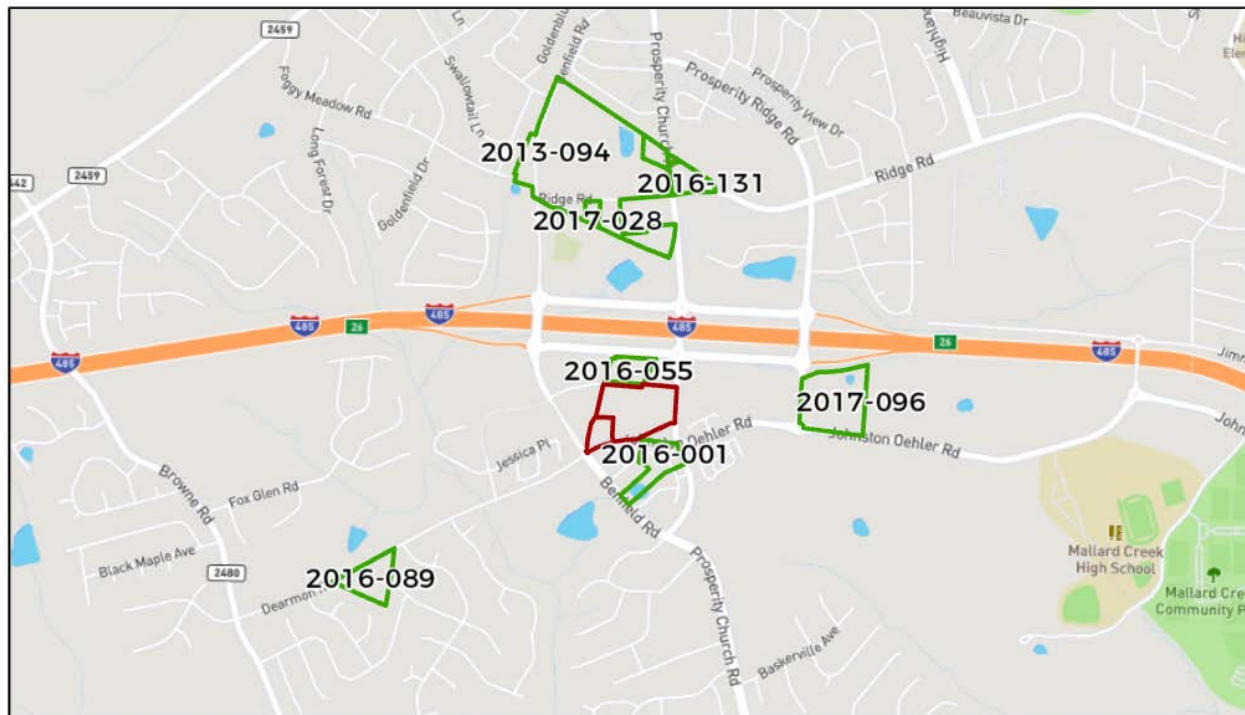
- Allows up to 110,000 square feet of all uses permitted in the MUDD (mixed use development) district with the exception of standalone residential dwellings, automotive service stations and warehousing in enclosed buildings.
- Allows the largest of the existing buildings, formerly a grocery store, to be converted to a movie theater use. The exterior building façade will be updated.
- Notes that there is currently 69,783 square feet in the existing buildings, this includes the former grocery building. Up to 40,217 square feet will be for future development.
- Indicates building envelopes with primary building orientations to the public streets for future development.
- Provides an eight-foot planting strip and six-foot sidewalk ~~Extends the existing five-foot planting strip and five-foot sidewalk~~ along Johnston Oehler Road from the current terminus east to the property line prior to the certificated of occupancy for the change of use for the movie theater.
- Commits to the following site improvements prior to the first certificate of occupancy for the first new building constructed on the site:
  - The construction of the unnamed road (likely to be called Prosperity Crossing Drive).
  - A six ~~eight~~-foot planting strip and six-foot sidewalk along the unnamed street from the current terminus east to Prosperity Church Road.
  - A minimum 4,500 square-foot village green in the northeast corner of the site.
  - Coordination with the Prosperity CNIP project team on the completion of the multi-use path project adjacent to the site along Docia Crossing Road to the intersection with Prosperity Crossing Drive.
- Specifies that all future development of the site including new buildings, expansions and major modifications to facades of existing buildings, shall comply with the MUDD (mixed use development) district without options and new buildings and expansions will focus on the pedestrian environment through a number of architectural and site design standards.
- Requests the following optional provisions:
  - Allow parking and maneuvering between existing buildings and surrounding streets.
  - Allow existing streetscape ~~and setback~~ conditions to remain along Docia Crossing Road, western portion of Johnston Oehler Road and Prosperity Crossing Drive abutting the site.
  - Allow one accessory drive through facility containing no more than 2,600 square feet on the site.
  - Allow the existing pylon sign on Docia Crossing Road to be removed and either relocated or a sign of similar size not to exceed 24 feet in height, nor 110 square feet of signage space to be installed at the Johnston Oehler Road entrance to the site.

### • Existing Zoning and Land Use



- The site is zoned NS (neighborhood services) and consists of a community shopping center, anchored by a supermarket space which is currently unoccupied. The site also has a series of small shops that back up to a narrow alley intended as an extension of Prosperity Crossing Drive. To the north across the Prosperity Crossing Drive extension are properties fronting Robert Helms Road with new self-storage and retail under construction, zoned MUDD-O (mixed use development, optional) and an vacant site still zoned R-3 (single family residential).
- The site is located within the growing Prosperity Church Road mixed use activity center. Extending further in all directions are properties in a mix of uses including townhomes, apartments, medical and general office, and retail uses in a variety of zoning districts, including CC (commercial center), NS (neighborhood services), R-8MF(CD) (multi-family residential, conditional), Inst(CD) (institutional, conditional), and UR-2(CD) (urban residential, conditional). There are also large lot residential parcels zoned R-3 (single family residential), which are expected to redevelop.
- Beyond the activity center boundaries are single family detached residences generally zoned R-3 (single family residential).

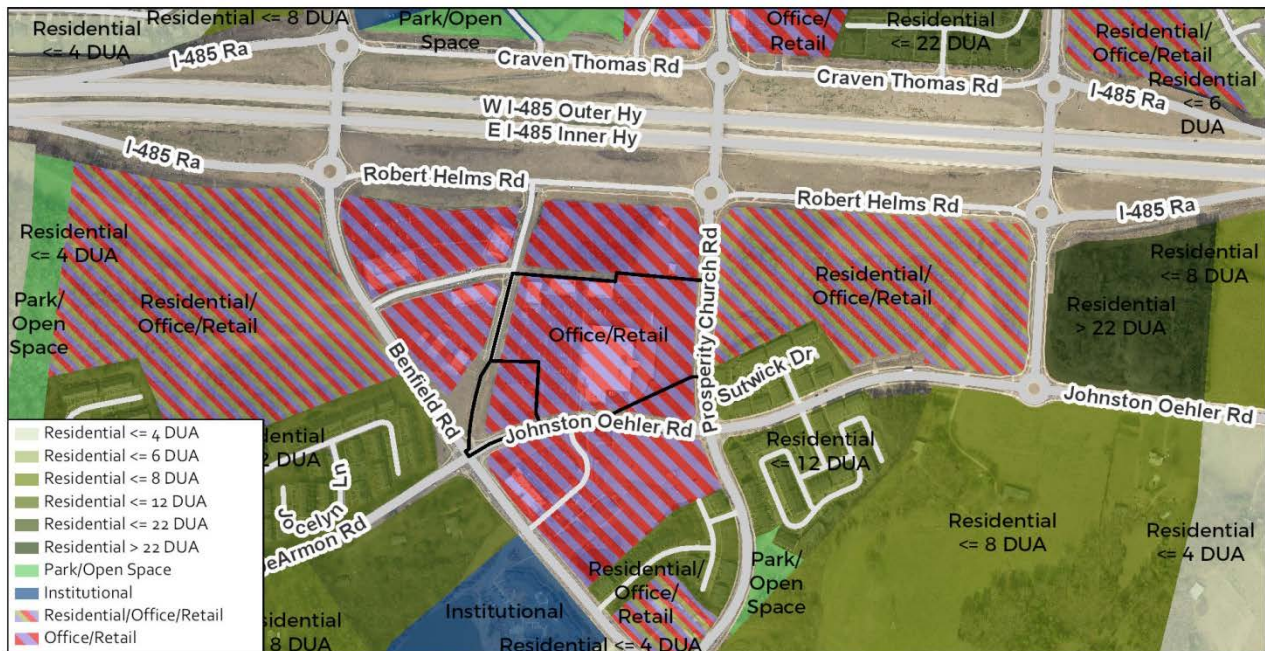
- Rezoning History in Area**



Petition Number	Summary of Petition	Status
2017-096	Amended a UR-2(CD) (urban residential, conditional) site plan for 8.96 acres to allow development of 260 multi-family dwellings.	Approved
2017-028	Rezoned .77 acres to NS (neighborhood service) to allow a 4,500-square foot building to allow retail, office and/or EDEE (eating/drinking/entertainment establishment)	Approved
2016-131	Rezoned and amended the site plan for 1.63 acres of NS (neighborhood service) to allow up to 5,000 square feet of eating/drinking/ entertainment (EDEE) uses or other commercial uses.	Approved
2016-089	Rezoned 4.35 acres to INST(CD) (institutional, conditional) to allow the development of a masonic lodge.	Approved
2016-055	Rezoned 2.52 acres to MUDD-O (mixed use development, optional) to allow a mixture of street front retail and office uses, with self-storage uses located on the interior of the site.	Approved
2016-001	Amended a NS (neighborhood service) site plan for 3.65 acres to allow retail or office uses on a vacant parcel within an existing retail/office development.	Approved
2013-094	Rezoned, amended the site plan and established five-year vested rights for 33.84 acres of CC (commercial center) property to allow 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.	Approved



## • Public Plans and Policies



- The *Prosperity Hucks Area Plan* (2015) recommends a mix of uses: retail/service, office, hotel, and institutional, with parcels over five acres to include at least two uses such that a single use does not dominate the area; designed and connected to create a unified walkable place.

Community Design guidelines in the *Prosperity Hucks Area Plan* include the following:

- compact development that is pedestrian oriented, and well connected internally and to surrounding development;
- new buildings oriented towards the streets with the majority of parking located to side or rear of buildings;
- shared parking is encouraged; and
- the ground floor of buildings designed to activate streets and open space.

## • TRANSPORTATION CONSIDERATIONS

- The site is bordered by minor thoroughfares and local streets. The site plan commits to streetscape extensions and pedestrian connections through the site. However, CDOT requests commitment to construction of new streetscape sections to current standards and construction of unfinished street connections within the site as development occurs.

- See Outstanding Issues, Note 6-8.

### • Vehicle Trip Generation:

Current Zoning:

Existing Use: 5,380 trips per day (based on 69,783 square-foot shopping center).

Entitlement: 7,225 trips per day (based on 110,000 square-foot shopping center).

Proposed Zoning: 4,850 trips per day (based on 50,503 square foot movie theater and 59,497 square-foot shopping center).

## DEPARTMENT COMMENTS (see full department reports online)

- Charlotte Area Transit System:** No issues.
- Charlotte Department of Housing and Neighborhood Services:** According to recent data from the U.S. Department of Housing and Urban Administration, there is an estimated need for approximately 34,000 affordable workforce housing units in the City of Charlotte. In an effort to increase the estimated supply, developers are encouraged to assist in providing homes at diverse price point to meet increased housing demand.
- 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 infrastructure accessible for the rezoning

boundary via an existing twelve-inch water distribution main located along Johnston Oehler Road. Charlotte Water has sewer system infrastructure accessible for the rezoning boundary via an existing eight-inch gravity sewer main located near the southwest corner of the parcel on Johnston Oehler Road.

- **Engineering and Property Management:**

- **Arborist:** The location of structures/driveways/other items illustrated on the site plan are conceptual in nature and do not confirm or imply authorization by the City to remove any City trees located in street right-of-way; City Council approval of the rezoning site plan does not confirm or imply authorization by the City Arborist to remove any tree located in a public street right-of-way. No trees can be removed from the right-of-way from any city maintained street without explicit authorization from the City Arborist or his designee.

No trees can be planted in the right-of-way of any city maintained street (Docia Crossing, Johnson Oehler, or Prosperity Church) without explicit authorization from the City Arborist or his designee. Contact the City Arborist's office to discuss trees species to be planted in the right-of-way on a City of Charlotte maintained street; species must be approved before planting.

The petitioner shall submit a tree survey for all trees two inches in diameter at breast height (DBH) or larger located in the public right-of-way. In addition, the survey shall include all trees eight inches (DBH) or larger in the setback. Tree survey may be completed by landscape architect, surveyor, or other land development professional

- **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 issues.
- **Mecklenburg County Parks and Recreation Department:** No issues.

## OUTSTANDING ISSUES

### Land Use

1. ~~Add a note under note 3 permitted uses that in the event of any redevelopment that includes the demolition of the largest, existing building (formerly grocery store, proposed movie theater) a new rezoning will be required.~~ **Addressed**

### Site and Building Design

2. ~~Add an optional provision to allow a 10-foot building setback from the back-of-curb for the existing buildings along Prosperity Crossing Drive.~~ **Addressed**
3. ~~Provide a 14-foot setback along Prosperity Crossing Drive for all future buildings.~~ **Addressed**
4. ~~Add bold, building frontage lines for all future building envelopes.~~ **Addressed**
5. ~~Remove the label and dashed line for future pedestrian connection from Docia Crossing into the site along the main east/west drive.~~ **Addressed**

### Transportation

6. ~~Modify the future curbline to match a local collector (CLDSM U-07) cross-section.~~ **Addressed**
7. ~~Modify the development notes to specify in the event of demolition of the anchor building and new replacement development that future local streets bisecting east/ west and north/ south through the site will be provided and match a local commercial wide (CLDSM U-05) cross section.~~ **Staff has rescinded this request because the petitioner has addressed note 1 under land use above.**
8. ~~Revise the site plan and conditional notes to reflect the extension of Prosperity Crossing Drive encompassed on the site so that the northern curb line runs along the northern property line and transition to parcel 02932108 (see petition 2016-055 for reference). Include a scaled conceptual alignment of Prosperity Crossing Drive between Docia Crossing Drive and Prosperity Church Road.~~ **Addressed**
9. ~~Revise the site plan and conditional notes 8 a and b to use eight-foot planting strip and six-foot sidewalk for any new construction of streetscape along the site frontages.~~ **Addressed**
10. ~~Revise the site plan to commit to the extension of Prosperity Crossing Drive upon the first certificate of occupancy for the movie theater not the first new building on the site.~~ **This issue has not been addressed as the notes on the site plan conflict with the timing and location requested by CDOT.**

## REQUESTED TECHNICAL REVISIONS

### Land Use

11. ~~Amend the site development data proposed use to match the permitted uses note 3a because a movie theater is not the only proposed or allowed use.~~ **Addressed**
12. ~~Modify Note 2c under the Optional Provisions to read "One accessory drive-through facility~~

- ~~associated with a building containing not more than 2,600 square feet of interior space shall be permitted on the site in the building envelope indicated on the site plan."~~ Addressed
13. ~~Add a label to the site plan to indicate that the drive-through facility will be located in the southwest building envelope.~~ Addressed
14. ~~Clarify under the General Provisions and Note 3b under permitted uses to clarify the 110,000 square feet allowed includes the movie theater.~~ Addressed
15. ~~Clarify Note 3b and "Permitted Uses" that the 40,217 of future development includes the 2,600 square feet for the drive through facility.~~ Addressed

#### Site and Building Design

16. ~~Remove the existing building size under the "Site Development Data."~~ Addressed
17. ~~Modify the streetscape shown on the site plan along the extension of Prosperity Crossing Drive to provide an eight-foot planting strip and six-foot sidewalk.~~ Addressed
18. ~~Amend the labels for the future building envelopes to clarify that parking may also be located in the envelope and parking will be to the rear of future building.~~ Addressed
19. ~~Provide a picture of the existing pylon sign in the site plan so staff will know what it looks like.~~ Addressed

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#### **Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

- Application
- Site Plan
- Locator Map
- Community Meeting Report
- Pre-hearing staff analysis
- Department Comments
  - Charlotte Area Transit System Review
  - Charlotte Department of Housing and Neighborhood Services Review
  - Charlotte Fire Department Review
  - Charlotte Water Review
  - Engineering and Property Management Review
    - City Arborist
    - Erosion Control
    - Land Development
    - Storm Water
    - Urban Forestry
  - Mecklenburg County Land Use and Environmental Services Agency Review
  - Mecklenburg County Parks and Recreation Review
  - Transportation Review

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