

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**City of Burlington, NC**  
**June 10, 2014**

**Members Present**

**City:**

Mr. Mike Gee, Acting Chairman  
Mrs. Joyce Lance  
Mr. Eric Grant  
Mr. Todd Smith  
Mr. David McDevitt

**Members Absent**

Mr. Ed Wilson  
Mrs. Sylvia Greeson

**ETJ:**

Also present was Mr. Joey Lea, Zoning Administrator and Mr. Chris Marland, Zoning Enforcement Officer.

Acting Chairman Mike Gee called the meeting of the Board of Adjustment to order at 8:30 a.m. Mr. Wilson stated the city representatives to the Board of Adjustment are appointed by the City Council. This is a quasi-judicial hearing. Everyone speaking before the Board should state their name, sign the log on the podium, and swear or affirm that everything they say is true to the best of their knowledge. Appeals of the Board's decisions may be taken to the Alamance County Superior Court. The City will state their position because of their knowledge of the case and the technical codes. The applicant will state their case, and then anyone from the public may speak. After the applicant and the public have presented all evidence the Board will then close the meeting to the public and discuss the case and vote. During this time no more evidence shall be admitted nor any other arguments made unless the Board wishes to ask the Applicant a question pertaining to the evidence already presented. Anyone that tries to make an argument or present any evidence at this time will be out of order. The Chairperson may order any individuals who willfully interrupt, disturb, or disrupt to leave; failure to comply with this order is punishable by imprisonment up to 6 months, a fine of \$250.00 or both. An affirmative four-fifths vote is required to grant a variance, special use or an appeal.

**DUE PUBLICATION**

Mr. Chris Marland, Zoning Enforcement Officer with the City of Burlington, stated, due notice and publication of this meeting of the Board of Adjustment has been made, and all contiguous property owners were mailed a notice advising of this meeting

## **SWORN TESTIMONY**

Prior to testifying before the Board, each party was sworn in or affirmed that the testimony they were about to give was true to the best of their knowledge.

## **MEETING MINUTES**

Acting Chairman Mr. Mike Gee stated, the first item of business for today is going to be the approval of the minutes from the May 13, 2014 meeting. Did everyone receive a copy of the minutes? Are there any changes that need to be made? Board Member Mrs. Joyce Lance stated yes sir. I need to give Mrs. Greeson credit for this because she looked over them very closely. On the front page of the minutes, second line, to the right it needs to say "Board of Adjustment appointed by the City". On the second page of the minutes, second paragraph under Meeting Minutes, third line down in the middle of the first sentence starts in middle and it should say "Are there any proposed changes?". The next sentence needs to read "Mrs. Sylvia Greeson stated yes." Then it needs to say "Ms. Joyce Lance stated I didn't get a chance to look over." Board Member Mr. Eric Grant made a motion that to approve the minutes as corrected. Board Member Mr. Todd Smith seconded the motion. The Board voted unanimously to approve the May 13, 2014 Meeting Minutes as corrected.

## **ITEM NO. 1:**

### **CASE NO. 05-14 – SPECIAL USE PERMIT (CITY & ETJ)**

#### **Beacon Baptist Church**

1622 Kirkpatrick Rd.

Alamance County Tax Map 3-22E-34

§ Section 32.9

Churches in R-15 district.

**EVIDENCE PRESENTED:** Zoning Enforcement Officer Mr. Chris Marland stated, the first case before you today is 05-14, Beacon Baptist Church. We believe that the church was not in our jurisdiction at the time that it was constructed. The church has since applied for an addition which would be an expansion of the nonconforming use. As you see on the site plan, they are adding a fellowship hall at the top of the property, right by the parking lot. The expansion requires the church to attain the Special Use Permit that would bring it into compliance. There was a property line issue, but that is being resolved by combining 2 of the lots. Board Member Mrs. Joyce Lance asked, when did the initial nonconformities start? Mr. Chris Marland stated, we are not exactly sure when it came under the City's jurisdiction. At the time, it would have needed a Special Use Permit. Board Member Mrs. Joyce Lance asked, so it's prior to that? Mr. Chris Marland stated, correct. Acting Chairman Mike Gee asked, prior to the time a Special Use Permit was required, could you be more specific? Zoning Administrator Mr. Joey Lea stated, the church was built in 1977 according to the County records. We believe that the church was not in our jurisdiction when it was built therefore, once it was annexed into the City it became nonconforming.

We have no record that there was an existing prior Special Use Permit. Board Member Mrs. Joyce Lance asked when was that area annexed? Mr. Joey Lea stated, we are not sure. Board Member Mrs. Joyce Lance asked, you have no idea? Mr. Joey Lea stated, no ma'am. Board Member Mr. Eric Grant stated, the church was built under county jurisdiction. Board Member Mrs. Joyce Lance stated, I get that, but I was wondering, when was it annexed into the City to where it became under our jurisdiction? Acting Chairman Mike Gee stated, I guess that is really not relevant because it became nonconforming when it was annexed.

Mr. Jay Lowe stated, my name is Jay Lowe; I swear that everything I say is to the best of my knowledge and is the truth. We have an existing fellowship hall and are planning to do a roughly 40 X 67 addition to the existing hall. When we submitted the plans, we were unaware of the nonconformity. As you are aware, we had a property line issue, and we are taking care of that by submitting for a recombination. We are asking for the Special Use permit because of the property being nonconforming after it was annexed into the City and that is what created that. I myself do not know when the annexation was. The date he gave for the existing structures are correct. One structure was done in the 1970's and more additions were done in the 1980's. Board Member Mrs. Joyce Lance asked, what is your relationship to the church? Mr. Jay Lowe stated, I am a member of the Building Committee, I'm a deacon plus I'm the surveyor for the plans. Board Member Mr. Todd Smith asked, what is in this picture? The trapezoid kind of shape, is that the new building? Mr. Jay Lowe stated, the half in the area with the dots, yes that is the new addition that is proposed. Board Member Mr. Todd Smith asked, the existing hall, is that going to stay and become a part of the new building? Mr. Jay Lowe stated, yes sir. Board Member Mr. Todd Smith asked, you bought the lot next door? Mr. Jay Lowe stated, the church has owned that lot for years. They actually own 3 lots there. We are combining 2 lots together for this. Board Member Mrs. Joyce Lance asked, have you spoken to any of the adjoining property owners? Mr. Jay Lowe stated, I haven't spoken with many. I have spoken with Mr. Richard Jones who owns some adjoining property and I explained what we are trying to do and he has no issues with it. Board Member Mr. Eric Grant asked, the property adjoining the church property, is any of it developed? Mr. Jay Lowe stated, no. On each side along Kirkpatrick Road it is residential structures. There are just residential home sites, no kind of subdivision developments. On the rear of the property is large wooded track that is either for sale, or is in the process of being sold. It is not yet developed. Mr. Joey Lea stated, this property line to the north of the church is going to be removed, so this will all be one large lot. Acting Chairman Mike Gee stated, I would like to remind the Board that we need to address four conditions that are required for a Special Use Permit, and as we are doing that, and if there is any further questions that we need to ask Mr. Lowe to get the information that we need to make a decision. Board Member Mrs. Joyce Lance asked, do you feel like your planned expansion will in any way endanger the public health or safety? Mr. Jay Lowe stated, no ma'am. Board Member Mrs. Joyce Lance asked, what do you base that on? Mr. Jay Lowe stated, right now we only have several functions throughout the year. Around ninety percent of the time we are fine and have plenty of room, but we do have some functions that it gets tight inside the fellowship hall we have now.

We have so many people there that, by doing the expansion, it will create more room and there will be fewer chances of any emergencies. This will make for less congestion with more exits and things to create more safety. Board Member Mrs. Joyce Lance asked, you are simply expanding a church that was built in the '70's, so it has been there a long time? Mr. Jay Lowe stated, yes ma'am. Board Member Mrs. Joyce Lance asked, do you feel like it will substantially injure the value of any of the adjoining properties? Mr. Jay Lowe stated, no ma'am. We are matching the exterior to what is currently there and by no means feel it will do any damage to the values. Board Member Mrs. Joyce Lance asked, have you had anyone express any concerns to you? Mr. Jay Lowe stated, no ma'am. Board Member Mrs. Joyce Lance asked, do you feel like if you continue with this expansion as planned, that the property will remain in harmony with the area it is to be located? Mr. Jay Lowe stated, yes ma'am. Board Member Mrs. Joyce Lance asked, do you have anything else that you would like to add as far as general conformity or anything that you are planning? Mr. Jay Lowe stated, no ma'am. Board Member Mrs. Joyce Lance asked, have you spoken with the City so you that know you have met, or going to meet, all the requirements, conditions, and specifications? Mr. Jay Lowe stated, yea ma'am. Board Member Mrs. Joyce Lance asked, so you feel like you have done all your homework and are ready to go? Mr. Jay Lowe stated, I believe that we have. Board Member Mrs. Joyce Lance asked, you're just waiting on this Board to say that it is approved or not? Mr. Jay Lowe stated, yes please. Acting Chairman Mr. Mike Gee asked, is there anyone from the public that would like to address this request for Beacon Baptist Church? Seeing no public comment, I would like to close this to Board discussion.

**DISCUSSION & FINDING OF FACTS:** Acting Chairman Mr. Mike Gee stated, it appears to me that, after the conversation and the questions that Mrs. Lance asked, all four conditions have been met in this case. This is an existing church that is just expanding the existing fellowship hall. The applicant has stated the uses will actually create a better environment for the parishioners. There will be more access points. The required conditions, again based on the testimony from the applicant and his conversation with the City, appear to have been met. The third and fourth condition again the applicant has covered those questions fairly reasonably.

**DECISION:** Board Member Mr. Todd Smith stated, I would like to make a motion that the four required conditions for issuing a Special Use Permit in accordance to Section 32.13.B(1)(a) are met due to the following Finding of Fact:

1. ***the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approves;***  
the findings of fact are that it's located in a rural area, it's a place that's been a church since the 70's. It has no problems. It already has a fellowship hall and a slight increase will not affect the area.
2. ***the use meets all required conditions and specifications;***  
the findings of facts are that both Mr. Marland and Mr. Lea testified here that all the conditions have been met.

3. **the use will not substantially injure the value of adjoining property or that the use is a public necessity;**

the findings of fact are that it's fairly rural, not many neighbors. The one neighbor that was contacted didn't want to come today and no one else has said anything and doesn't appear it will affect anyone's property, except to improve it.

4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs;**

the findings of fact are this church has been here since before it came within the City jurisdiction. It seems like a nice place to go and do church activities.

Board Member Mr. Eric Grant seconded the motion.

**AYES: Lance, Grant, Gee, Smith, McDevitt**

**NOES:**

Board Member Mr. Todd Smith stated, I would like to make a motion to approve the Special Use Permit for Beacon Baptist Church located at 1622 Kirkpatrick Road due to the previously stated Findings of Fact, and the applicant be required to comply with all of the State and City requirements, and that the applicant/owner shall complete the development according to the plans submitted and approved by this Board and if any of the conditions affixed hereto or any part therefore shall be held invalid or void then this permit shall be void and of no affect.

Board Member Mr. Eric Grant seconded the motion. The board voted unanimously to approve the Special Use Permit.

**AYES: Lance, Grant, Gee, Smith, McDevitt**

**NOES:**

**CASE NO. 06-14 – SPECIAL USE PERMIT (CITY)**

**Cummings Place**

2470 Edgewood Ave.

Alamance County Tax Map 3-17-9

§ Section 32.10 TT

Multifamily Townhomes in R-15 zone.

**EVIDENCE PRESENTED:** Zoning Enforcement Officer Mr. Chris Marland stated, as you stated case number 06-14 is Cummings Place Townhomes at 2470 Edgewood Ave. Mr. Ray Evans and Tim Whithrow are applying for a Special Use Permit for multifamily development consisting of 10 townhomes to be located at 2470 Edgewood Ave.

The property is zoned R-15 Residential. Townhomes within the R-15 district require a Special Use Permit. The site plan has been approved by the Technical Review Committee and meets all aspects of our code. Board Member Mrs. Joyce Lance asked, you said Ray Evans and who is the other person? Mr. Chris Marland stated, Tim Whithrow. Board Member Mr. Eric Grant asked, did you notify the surrounding property owners? Mr. Chris Marland stated, yes. Acting Chairman Mr. Mike Gee asked, to just clarify, this has been before Technical Review Committee and has been approved and does meet all the specific requirements for Townhomes in that area? Mr. Chris Marland stated, that is correct. Board Member Mrs. Joyce Lance asked, I guess we're going to learn how many units from the applicant? Mr. Chris Marland stated, there will be 10 townhomes. Board Member Mrs. Joyce Lance asked, 10? Mr. Chris Marland stated, correct. Board Member Mr. Eric Grant asked, were there any responses from the public on this issue? Mr. Chris Marland stated, we received many phone calls on this issue. Zoning Administrator Mr. Joey Lea stated, a lot of the calls were positive. Some were inquisitive and a few were negative. For the most part, everything we heard from those that had called was positive towards this development. Board Member Mr. Todd Smith asked, I know we had more positive calls but with the negative calls, was there a particular issue or people just don't want townhomes there? Mr. Joey Lea stated, Pretty much didn't want it or didn't think it would fit. Acting Chairman Mr. Mike Gee asked, just to dig a little bit deeper, with the specific requirements all the setbacks are proper in this request? Mr. Chris Marland stated, correct. Acting Chairman Mr. Mike Gee asked, the building will not exceed the maximum height of 50ft? Mr. Chris Marland stated, that is correct. Acting Chairman Mr. Mike Gee asked, the maximum lot coverage is not going to be 55% of the land area there? Mr. Chris Marland stated, that is correct. Acting Chairman Mr. Mike Gee asked, there is going to be at least 25% of the lot area available for open space? Mr. Chris Marland stated, that is correct. Acting Chairman Mr. Mike Gee asked, we can ask the applicant this but if you do know, I've seen the plans, the maximum number of townhomes will not exceed 10 in this request? Mr. Chris Marland stated, that is correct. Mr. Joey Lea stated, the actual density will allow 11, but all the technical requirements have been met and this project has been through the Technical Review Committee quite extensively.

Mr. Marshall Evans stated, my name is Marshall Evans and I do swear and affirm that everything I say today will be honest and truthful to the best of my ability. I'm with my business partner Tim Whithrow and we are owners of this particular piece of property. We are also licensed unlimited commercial builders with a general contractor's license in good standings with the state and also a company that's financially stable. We are proposing this morning that we be allowed to build 10 high-end single family townhomes. Prior to building this we actually surveyed the market to see what folks in the community wanted us to buy and build. It became really clear to us that our project needed to be targeted towards retiring baby boomers or baby boomers that were already retired. A couple of the things that became very important to us in this particular market was the project had to be really nice, the exterior had to be brick, and had to be no vinyl construction. The landscaping packages had to be really nice. Folks were very interested in an energy efficient project. I think folks are tired of the high utility bills that they see now.

That brings up some interesting features about this project. This project will be heated and cooled with geothermal heating and cooling. It has radiant floor heating in the slab; so if you step out of bed in the morning or get out of the shower, the floors will be warm. The geothermal will be heating and cooling the property, it will also be heating and cooling the water that is provided for the domestic hot water. In addition to that, this project will have a spray foam that will increase the energy efficiency of the project to lower the foot print for the project. One of the main features that we are excited about is that the project is a smart project. Everything in it will be designed to make it a smart house. It will have an entry-level automation package built into each individual house. Where the homeowners can expand on that in the future or expand on that initially. You will be able to sit on the couch and open your front door, look at your cameras, turn lights on or off and turning water on if you wanted to. One of the things that became important with this particular market is, we needed these projects to be accessible. This is a handicap accessible constructed project. It features a lower entryway to get in and out of the project just by a couple inches. It has wider hallways and doorways and also has larger bathrooms that will allow this project to be used by this particular customer in the years to come. One of the big items that came up was, it needed to be a gated project. We did that because this particular market segment that they wanted the project to have a different level of safety and security. Just kind of keep people out that don't need to be there during the daytime driving in and out of the project, so we felt like that was important. One of the interesting things is when we began to dig a little deeper and develop our plans we realized early on that we cannot find another project like this across the country. We can find projects that help with thermal heating and cooling. We can find projects that have spray foam. We can't find a project that has all of the amenities that this project has with the home automation. We're really excited that we do believe the project will have a lot of regional and national exposure for itself. It's really going to show the community a different level of building, of what we can foresee. As the baby boomers age, there's a lot of us, we think it's an unbelievable market opportunity for a great place. One of the things we also wanted to do in building this project, we want to be a good neighbor. I think that is very important and in doing so we held a community meeting last Thursday at the Courtyard by Marriot. At this meeting it was very well attended, we had 13 different households to attend the meeting. We actually showed the site plans, we answered any questions the folks had and that meeting was very well received. We had the typical questions you would get; what are you going to build, how are you going to landscape it, what's it going to look like, and we evened showed some samples that kind of fits the country club aspect there. So we were very excited that meeting went very well. As builders and developers we have been very careful to meet the Technical Review requirements for this project based on what the City has required. We have actually completed that process. We have been very careful with our designs and to make sure the designs of the project does fit the area. We have also been very diligent in sharing information to any and everybody that wants it. The interesting thing about this project is the base sale price for each unit is \$356,000. We do have deposits on 3 already. The average price of those is about \$400,000.

We have an additional 3 under negotiation now and 3 or 4 other meetings scheduled. So one of the things we believe is going to happen before we actually build our first unit, we think they all will be sold. This would allow us to complete them and get them out in a timely basis. Based on the merits of the project today, we are asking for approval based on the fact that we have met all the Technical Review requirements for the City. And for the simple fact the project is very comparable for what is in the neighborhood, in fact the sale price and the amenities that are offered with the project we think it exceeds a lot of the things that are in the neighborhood. We just want to be good neighbors to everyone. Acting Chairman Mr. Mike Gee stated, thank you Mr. Evans. I know you mentioned the gated nature of the community which does go towards the safety of the residents there? Could you talk about if you feel like this is going to endanger any of the surround neighbors as far as the safety, traffic impact and that type of thing? Mr. Marshall Evans stated, we are almost positive it will not and I'll tell you why, with the entryway that we have provided, it allows for a couple cars to come into the entryway and be off of Edgewood and the little key code that you punch in, is in the middle. If you are an individual that is not supposed to be there then there is a turn-around provided so you do not have to back in and out on Edgewood. In addition to that, the fact that we're talking about the baby boomers and then there's 10 units in the project and we just don't see a lot of traffic coming in and out. In fact, if anything, we're hoping to keep some traffic from coming in and out to solicit these customers. Board Member Mrs. Joyce Lance stated, when you had the meeting for the property owners, which I applaud you for doing because I can tell you that through the years we have more applicants come before us and they have not shared their plans with surrounding community, did you learn anything there that gave you pause as far as we need to do this and that, we could improve it this way? Mr. Marshall Evans stated, well we did have some requests from individuals that are adjacent to the property. Some wanting to keep this tree, don't take this tree down, some want this tree down cause it's leaning towards their property, and some said could you put an extra bush or two behind here for more protection. In all, those things are things that we intend to do. It's really for a couple reasons, it's the right things to do, it separates the 2 projects, both are single family but at the same time the clientele that have purchased the units they are demanding that they won't expect anything less. We feel pretty confident that we can, as we begin to clear and get the site ready, meet with everybody and accommodate everyone. Acting Chairman Mr. Mike Gee stated, I noticed that there is going to be a privacy fence or wall on Edgewood for the main traffic area, what type of landscaping will be on the back boundaries of the property? Mr. Marshall Evans stated, we have the proposed landscaping boundaries on all 4 sides that are required by the City and we have also identified some fairly nice large trees that we can keep in and around the property to keep some of the esthetics, as long as those trees are in good shape. We've looked at that and feel like we have met and exceed all those requirements. Board Member Mr. Eric Grant asked, the meeting you had at the Courtyard, how many residents attended? Mr. Marshall Evans stated, we had 13 different households that attended. We actually sent registered letters to the folks in the community to make sure everybody that had expressed interest through the City received an invitation.

All of the adjacent property around the project received one of those invitations. We felt like it was very well attended, it went really well. Board Member Mr. Eric Grant asked, of those there, how many were objecting to this project? Mr. Marshall Evans stated, we really didn't get the understanding that we had any objections to the project. We had a lot of questions at that meeting; when will you build, what's it going to look like, how big is it, tell us about the gate, and tell us about the landscaping. Typical questions that you would have when you have that type of meeting. I think folks understood quickly that the value, you know the cost of this project is \$356,000 that's the base and they are going close to \$400,000, and what we are building will do nothing but add value to their surrounding property. Acting Chairman Mr. Mike Gee asked, Mr. Lea and Mr. Marland, Saddle Club, which is maybe less than ½ mile to a mile away from where this project is, there are some patio homes located on that street is that correct? Zoning Administrator Mr. Joey Lea asked, Shadowbrook Drive? Acting Chairman Mr. Mike Gee stated, yes is that correct. Zoning Administrator Mr. Joey Lea stated, yes. Acting Chairman Mr. Mike Gee asked, so something like this is not unprecedented in this area? Zoning Administrator Mr. Joey Lea stated, correct. Mr. Marshall Evans stated, I would like to add one of the interesting comments that came out of the meeting that we had, there were some adjacent property owners that have some additional property in the area and they felt like this was the perfect use for those properties as well. This is what folks want to buy for the future. Board Member Mrs. Joyce Lance stated, I feel like you have addressed most of what I'm getting ready to ask you so I apologize for that. As you know we have to look at certain criteria so do you feel that your project will endanger the public health or safety if you develop it according to the plan you have submitted? Mr. Marshall Evans stated, no ma'am it will not. Board Member Mrs. Joyce Lance asked, how did you determine that? Mr. Marshall Evans stated, we did that by a series of meetings with different City officials. We met with the water and sewer guys, we met with the street guys, and we met with the sanitation guys just to make sure the project we're getting ready to propose, number one, can be approved, and number two, will function well with the City. We've had a couple meetings with all those individuals and we have their blessing based on the requirements we put before you. Board Member Mrs. Joyce Lance asked, you also mentioned that you have the safety there at the gate and the turnaround place. We know that you have met and been approved by the Technical Review Committee, so you are meeting all the required conditions and specifications for this City? Mr. Marshall Evans stated, yes ma'am. Board Member Mrs. Joyce Lance asked, as far as injuring the value of the adjoining properties, how have you determined that there will be no injury there? Mr. Marshall Evans stated, in my opinion, we are building a project that, the base price is \$356,000, has tremendous amenities that fit extremely well in the community itself. We think the average sale price will be about \$400,000. Rather than address that, we have brought Glen Patterson in to get some expert testimony about that. Board Member Mrs. Joyce Lance stated, we need to know you feel like that your project is going to be in harmony with the area where it is to be located. Mr. Marshall Evans stated, yes ma'am we do. Board Member Mrs. Joyce Lance asked, how did you determine that? Mr. Marshall Evans stated, we looked at the area as a whole.

We have lived and worked in Burlington our entire lives; we know what is built in and around the community there, so we choose colors that were compatible with the country club area. We chose construction that was compatible, and our landscaping will be more than compatible. The gate is a really nice feature for the area that I think will give it some curb appeal. In addition to that, it is a really nice project that has a lot of amenities. I think folks will be proud of it. Board Member Mr. Todd Smith asked, I assume there will be some kind of covenant or homeowners association that will have some kind of plan to protect people from parking their trailers in their yards and things like that? Mr. Marshall Evans stated, we will. We will have all those in place prior to construction. Theirs will be pretty typical with what you see in the area, and in fact, they are typically copied by the attorney sent to review and rubber stamped. The clientele we have sold to are having some input that now as far as what you do and do not want to see. By having the presale and the preconstruction meetings and everything we are doing, we are getting some of that input, so we're allowing the clientele to help pick some of that. There will be nothing in there that you wouldn't be happy with, they won't allow it. Board Member Mrs. Joyce Lance asked, you may have added this to your question, but will there be a homeowners association there? Mr. Marshall Evans stated, yes ma'am. There will be one that takes care of the common property. If you notice in the area, in the middle we have a little picnic shelter/gazebo with some landscaping in and around that in case you were to have a family function or something and needed a little additional space. There is a couple little decorative lights that are in there that we were actually able to save from the front of the property that are very nice. The homeowners association will cover the basic grounds, which will include all of the landscaping, exterior maintenance for the building, it will also handle utilities for structures, utilities for the gate, sprinkler system for the landscaping, we will handle the sprinkler water meter, and the electricity for that as well. So we feel like the base price on that will be very affordable. It's not something we're looking to make any money off of. Acting Chairman Mr. Mike Gee asked, Mr. Evans again you have testified to the price and to the fact that some of these are presold I think a big question is just the impact on the value of the adjoining property, you did mention that you did have someone in attendance with you, would you like to have him get some testimony to support that?

Mr. Glenn Patterson stated, I am Glenn Patterson, I affirm that what I am about to say is true to the best of my knowledge. Acting Chairman Mr. Mike Gee stated, could you share with the Board your credentials and then what your opinion about the property and the potential impact on adjoining properties owners? Mr. Glenn Patterson stated, I am a state survey certified general real-estate appraiser. I have been in the business about 25 years appraising single-family homes, townhomes, chicken houses, golf courses, and whatever you need appraised. Mr. Withrow and Mr. Evans contacted me to look into whether the value would be hurt on the adjacent properties with this construction. This is very hard to determine when you are throwing hard data at it. What I did, I looked at 2 different areas in Burlington and one in Elon. They are condos/townhouse developments that are adjacent to single-family homes. One is very old, it's the Isley's Place Condo's or Windsor Townhouses, that are on Isley Place.

Those units range from 1,300-1,400sqft. And then the homes in the neighborhood were 900-2,650sqft with the average about 1,300sqft. The second area was a whole lot more like what the Cummings Development will be like. It is the Melville Commons at Mill Point, which is across the lakes at Mill Point from Alamance Country Club. The tax records indicated that those townhomes are about 2,500sqft. in size and they back up to homes that are single-family homes on Gleneagles Court and Burkdale Court. Both of the homes, single-family and townhomes, were developed in the early 2000's. Again the sell data was very limited in the last 2-3 years that I looked at, but the townhomes and the single-family homes were basically the same price other than being in an attached townhome unit. They were selling for a similar price as the detached lot single-family lots were. In my professional opinion, I can't determine that it would substantially devalue or increase value to adjacent properties. There really would be no impact at all on the value of it. Board Member Mrs. Joyce Lance asked, would it be fair to say that Cummings Place is a bit more high-end than other townhomes condos in the area? Mr. Glen Patterson stated, yes to the point that the greenness level and what they are talking about with all the new energy efficient items, the smart homes situation and all that. The closet thing we probably have is the Melville Commons and I would guess that they are as green as they could be. Green has changed in the last 10 plus years so, yes, I would say that they are probably going to be as nice as about anything in the neighborhood. Board Member Mr. Todd Smith asked, you didn't see anything that would indicate some properties would lose their value? There's no data that shows that? Mr. Glenn Patterson stated, no sir, I couldn't determine anything with the market that would indicate that. Board Member Mr. Todd Smith asked, will they maybe go up and increase values? Mr. Glenn Patterson stated, possible. Board Member Mrs. Joyce Lance asked, I'm not familiar with Mill Point; did you call it Mill Point Commons? Mr. Glenn Patterson stated, Melville Commons at Mill Point. Board Member Mrs. Joyce Lance asked, is it a gated area? Mr. Glenn Patterson stated, no it's just a cul-de-sac that comes off of Millpoint Drive, I think. Board Member Mrs. Joyce Lance asked, I presume Windsor Townhomes on Isley Place are not gated? Mr. Glenn Patterson stated, no, they are not. They actually are more of the older style 2 story townhome deals. Not a whole lot of amenities to them from what I can tell. Acting Chairman Mr. Mike Gee asked, just to clarify Mr. Patterson, in your professional opinion is there really no impact on adjoining property owners? Mr. Glenn Patterson stated, not that I could determine.

Mr. Marshall Evans stated, when we began to develop the ideas for this project, we went to several locations to kind of look and see what other folks had built, which is kind of needed in our business, and our designs are really kind of modeled after the Melville Commons project. We actually were able to get into one of those and take a look at the features inside and outside and basically we built a similar project with the energy efficient features and the smart-home technology that's now available that was just beginning to come into the market when that was built. So this project is Melville on steroids. Acting Chairman Mr. Mike Gee stated, thank you, we may need to call you back in a little bit. Is there anyone from the public that would like to talk about this case?

Mr. Ron Osborn stated, I'm Ron Osborn and I affirm that what I say today is the truth and truthful. My wife and I own the house at 412 Devonshire Lane which backs up to the property. We have no oppositions to the development, the only thing that we have oppositions to is to make sure that our property is somewhat taken care of, secure, and that we don't lose some of the things that we have now. In an ideal situation we would have loved to have seen the Cummings house stay there. We had a whole lot more background there at the time that we over looked and a lot more privacy. I realize now that with the building of this we are going to have less privacy. My understanding is, the way the townhouses are going to be built pretty close to our house because our house is not that far from the property line. The back of our garage, at the time of that picture you are now looking at, the trees were all there, but thanks to the last ice storm we had, that is pretty much open now. Our property is elevated higher than the Cummings property now too. At the present time, we have never had any runoff or anything from the Cummings property onto our property with the elevation and it being changed for the buildings there, that is a concern of ours. We would like to know that the 20ft open space between property lines there will hopefully be a lot of greenery there to kind of keep things somewhat more private for us and for their owners; that is our main concern. My understanding is, a water retention hole that is supposed to be built right behind our property line and that concerns me somewhat. When we had our meeting last week they assured us that was not much of a concern. I just hope that they will be able to at least hide that with the buffer of 20ft property line. Our main concern is just to try and keep somewhat private, that which we had before. We also want to make sure we don't have runoff from that property onto our property because, out of the properties that are beside us, we are one of the lower houses. Like I say, our property line is higher than all the Cummings property behind it. If they come in and bring in dirt, than level that off , then that will come on to us and it will be some kind of mound there to make sure that doesn't happen, that's my concerns. Acting Chairman Mr. Mike Gee asked, Mr. Lea or Mr. Marland, looking at the site plan again; I know this passed through TRC, just a general question based on that, that doesn't look like a retention pond that's there. This is just an area that intercepted water is going to drain to and it's going to be required to satisfy the needs of the water from that property is that correct? Mr. Chris Marland stated, that is correct. Board Member Mr. Todd Smith asked, it says on the reserved area for future stormwater retention, is there going to be a hole there or is it just the lowest part of the land where the water runs down? Mr. Joey Lea stated, that is going to be based on design. They have calculated the area that they need in the actual design. There are different ways to take care of stormwater and these retention areas do not hold water permanently. They are made and designed so the water seeps out slowly, so it doesn't retrain water all the time. If that is the way they go with the stormwater, then that would be determined by the design. But that stormwater is a requirement. It's a state requirement that has to be done.

Acting Chairman Mr. Mike Gee asked, Mr. Evans, I know we have addressed this question earlier just maybe you could go back over some of the landscaping that will be on the backside of the property there. Mr. Marshall Evans stated, we had a chance to talk with Mr. Osborn at our meeting he attended and was very cordial to us.

The landscaping on all 3 sides will be based on the requirements for the City. We've also told Mr. Osborn that we will work with him to make sure that we give him some additional screening in that area and protect his privacy somewhat. He is the only piece of property that we will touch that does not already have an existing fence. It wouldn't be prudent to build a fence beside a fence, but in that particular area we are going to leave the planting pretty substantial to make sure we give him some privacy. We will commit to that. We want to be a good neighbor. Board Member Mr. Todd Smith asked, that retention pond, what will it look like? Will it be a bunch of rocks sitting there or an open field? Mr. Marshall Evans stated, it will basically look like a sodded little indentation in the ground. It could be 10-12 inches deep. There will be some landscaping in and around it. Those are not designed to hold water at all, so they are just designed to slow down the water as it comes into the City. We feel pretty confident that it is not an issue.

Mr. Kurt Moore stated, my name is Kurt Moore and I affirm and swear that what I am about to say is true to the best of my knowledge. We attended the meeting also, so we have no objection to the property in general. Our concern is, we live on the cul-de-sac at 914 Colonial Drive. The southern portion of that lot is right across the street from us. Our concern is we've been assured that there won't be any gate or access to that property from that side. We would like to be on record saying that is our understanding. Some of the issues are, that a number of people use those streets; Devonshire Lane and Neese Drive often, to cut through residences from Church Street over to Edgewood and sometimes blowing off stop signs and speeding. Our concern is really just not having unnecessary traffic safety issues back there. Mr. Marshall Evans stated, I think early on, it was very apparent to us, that talking with the City folks and working with Joey, that this project would never be approved with 2 entrances, one in and one out. Also, our designs would never allow that to happen, there is no room for that. The approval from the City was for 1 entrance and 1 exit only. Now there are also some pretty substantial tree problems in that area, leaning over the roads and those type things. We are going to take care of that. There will never be a gate there and we are going to take care of the tree issues and landscaping. Acting Chairman Mr. Mike Gee asked, a question for the City, in relation to that in looking at the site plan, I'm not sure they would have the ability to make that an access point given the fact that it would have to come through the retention area, am I looking at that correct? Mr. Chris Marland stated, yes, aside from that, if you look at unit 5 there, the way it's positioned, it really doesn't lend any maneuverability to have any access coming out of there. Board Member Mr. Todd Smith stated, plus, they would have to have their homeowners association agree to it, to have it in place. Mr. Joey Lea stated, they couldn't legally do that because when this site plan was approved, that's the way it has to be designed, any changes would have to be amended.

**DISCUSSION & FINDING OF FACTS:** Acting Chairman Mr. Mike Gee stated, Mrs. Lance did a good job of addressing, and specifically asking the applicant to address the conditions for a Special Use Permit. I feel like the first condition is probably satisfied in several ways as far as the residents themselves, this is a gated community which is designed for the public safety of those particular residents. The entry way, as testified by the applicant, does allow for multiple cars to come in there, so there is no back up and potential traffic issues on Edgewood. There is a turnaround area that has been testified to that will be of minimal traffic impact. Looking at the second condition we specifically asked questions regarding the conditions and the specifications of Mr. Marland, Mr. Lea, and the City has also testified that the TRC has approved this plan. The density of the project would actually allow for 1 additional townhome than what is proposed. The third requirement really has to do with the value of the adjoining property owners and testimony by the applicant regarding the base price of the individual unit. The fact that 3 are presold for roughly \$400,000 and that there are 3 others in negotiations speaks to, I think, the value of the units that are being built. Testimony that is provided by an appraiser indicated, by looking at the market, that there is really nothing to indicate any positive or negative impact on surrounding property owners. The fourth condition, I think the applicant has testified, and the City has confirmed, that the nature in this is aligned with the area. The projects are going to be high-end, energy efficient and consistent with the homes located specifically in the Country Club area and in the properties that adjoin form the backside of the property. There are other units similar to this, it's not an unprecedented project, when you go to Shadowbrook there are existing patio homes which are pretty comparable to what is going to be put up here.

**DECISION:** Board Member Mrs. Joyce Lance stated, I would like to make a motion that we approve this Special Use Permit for Covenant Construction Company for a project named Cummings Place at 2470 Edgewood Ave. I would like to make a motion the four required conditions for issuing a Special Use Permit in accordance to Section 32.13.B(1)(a) are met due to the following Finding of Facts:

1. **the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved;**  
the findings of fact are, as we have discussed number one has be satisfied, it is a gated community as far as safety. There is turnaround room at the entry way and there should be minimal traffic.
2. **the use meets all required conditions and specifications;**  
the findings of facts are, the Technical Review Committee has reviewed this extensively and has approved it. Mr. Marland and Mr. Lea have not given any testimony that any of the conditions and specifications has not been met.

3. **the use will not substantially injure the value of adjoining property or that the use is a public necessity;**  
the findings of fact are, we did have testimony from Mr. Glenn Patterson who has 25 years history of appraising, and he frankly said sometimes this is hard to determine, but he did testify to the properties in the area that he could make some comparisons. There has been nothing testified to that would make us believe this, in anyway, would injure the value of the adjoining properties
  
4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs;**  
the findings of fact are, the units that have been sold are in the \$400,000 range. These are high-end townhouses set in a gated community. This is obviously a nice area of Burlington and it sounds like this would be a very marketable addition to our residential options. So I feel that has been satisfied as well.

Board Member Mr. Todd Smith seconded the motion.

**AYES: Lance, Grant, Gee, Smith, McDevitt**

**NOES:**

Board Member Mrs. Joyce Lance stated, I would like to make a motion to approve the Special Use Permit for Covenant Construction and Development Company for Cummings Place to be located at 2470 Edgewood Ave. due to the previously stated Findings of Facts and the applicant shall be required to comply with all of the State and City requirements, and that the applicant/owner shall complete the development according to the plans submitted and approved by this Board, and if any conditions affixed hereto, or any part therefore shall be held invalid or void, then this permit shall be void and of no affect.

Board Member Mr. Eric Grant seconded the motion. The board voted unanimously to approve the Special Use Permit.

**AYES: Lance, Grant, Gee, Smith, McDevitt**

**NOES:**

Acting Chairman Mr. Mike Gee stated, Mr. Evans thank you for your time today and thank you community members. I would just like to say I appreciate the efforts that have been made with the surrounding homeowners and just ask that you guys continue these lines of communication as this project goes forward. Your Special Use Permit has been granted.

**NEW BUSINESS:** None.

**MEETING ADJOURNED**

---

Ed Wilson, Chairman

---

Chris Marland, Secretary