



**MINUTES OF THE BURLINGTON PLANNING
AND ZONING COMMISSION MEETING**

February 22, 2021 – 7:00 pm

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

Richard Parker, Chairman
John Black, Vice-Chairman
James Kirkpatrick
Nicole Enoch
Ryan Kirk
Nancy Rosborough (Alternate)

EXTRATERRITORIAL MEMBERS:

Earl Jagers
Bill Abplanalp

STAFF PRESENT:

Mike Nunn, Planning Director
Joey Lea, Zoning Administrator
Conrad Olmedo, Planning Operations Manager

ITEM NO. 1:

Commission Chairman Mr. Richard Parker called the meeting to order at 7:00 p.m. Due to the Coronavirus Pandemic, this meeting is being held via Zoom platform. Please note this meeting is being recorded. If anyone is having technical or connection difficulties, please contact Conrad Olmedo at 336-214-4515 for support. For tonight's Public Comments to address the Commission in this meeting, please indicate that you wish to do so by using the raise hand feature in Zoom or if by phone, Press *9 and our meeting host will notify me that you wish to speak. Anyone who speaks must give their name and address for the record.

ITEM NO. 2:

Approval of the minutes of the meeting held January 25, 2021.

1st James Kirkpatrick
2nd Earl Jagers

Approved Unanimously

ITEM NO. 3:

Chairman Mr. Richard Parker stated, Mr. Ryan Moffit to present a request to rezone from MI Medium Industrial District to LDR Low Density Residential District. The properties are located on the south side of Hatchery Road approximately 2,200 feet east of Alamance Road, referenced as Alamance County tax identification numbers 121184 and being a portion of 121183, Mr. Moffit you have the floor.

Mr. Ryan Moffit stated, thank you Mr. Chairman I am happy to be here this evening, I am representing Mr. Jay Patrick Harmon, he and his two sons own the subject property along with 3 or 4 other adjoining properties which their family has owned since 194. Mr. Harmon's father David purchased the property in 1940, Mr. Harmon grew up on the property, there is a home existing on the adjacent parcel, and his son David currently lives and it's the third-generation

population of the existing home on the property. Mr. Harmon's request this evening is to rezone a 2-acre portion of the property identified as parcel 121183 and 121184, that is actually a single tax parcel but was assigned two numbers as a portion of it is in the corporate city limits while the remainder is in the ETJ. The request is to change this two-acre parcel from medium industrial to low density industrial. Mr. Harmon would like to build a personal residence, as I stated he grew up on this property and is retired he is ready to return home to this property and build a home to be out there with his son. Staff has noted the inconsistency with the comprehensive land use plan and that is why I am happy to be here this evening so we can look at the particular circumstances of the request some of the facts surrounding it, in hopes that you will see the reasonableness behind it, notwithstanding the future land use plan of these two acres property. The reasons I share with you the only reasonable recommendation is for approval of this request, the first thing I want to look at is the consistency of this request with the current surrounding land uses, this two acre area is surrounded by consistent uses obviously with exception of the airport to the north we have the suburban mobile home court that is owned by the Brown family which has been residential use a residential use for some time, to the west you have the residential use of the Hanford trust property, to the east you have the Harmon family home. This Harmon property for all intents and purposes has been a residence since they have owned it, that residential use extends to the south of this property. You have some general business uses in the larger surrounding area but aside from the airport as far as adjoining uses there are no industrial uses in the area, I know that is a future forward facing use, but as far as current facing uses this request could not be more consistent. It is also worth noting there are almost no general uses with which residential use in terms of a stand-alone personal residence, one house, uses where that is incompatible, we are not talking about dropping DR Horton North of runway or even Waterford, this is one house fronting Hatchery Rd. on 2 acres on land. Just to illustrate the point of compatibility with this proposed use and industrial other general uses it wasn't 15 months ago prior to the UDO that this property was zoned I-1a planned industrial residential uses where residential uses were permitted by right. If its staff's imposition that a 2-acre home is truly considered to be incompatible with medium industrial uses is it then so terribly incompatible that my retired client who wants to use his family property for 1 home. I appreciate that staff has to stick to the comprehensive plan but in view of these circumstances with the plans aside I don't think that would be a reasonable position to take. We appreciate that use does not track what the city wants to see for this property in the future that does not mean that this will disrupt the cities use for this area. To put it another way, we can still rest easy knowing that historically speaking, stand alone home sites have harmoniously coexisted with surrounding industrial uses not with standing there is little with standing industrial use in the immediate area other than the airport, no known prospects to use purchase and use the property for industrial purposes, and the property is probably not compatible for any other use other than the airport. This one house poses no threat to the cities future plan for this are. I also know that this is a more than reasonable land use the general statutes, a pretty useful framework for determining what is useful, the provide 5 factors; 1st the size physical attributes of the zoning area this is two small acres out of a whole region that the city has designated for future industrial uses zoning areas encumbered by 118feet easement along the road which is not conducive to other construction, zoning area at the road frontage so as not the intrude make unnecessary use of other subject properties that can possibly be used for future industry. I also wouldn't expect with the AT&T easement and other height restrictions and frequent air traffic in the vicinity, I wouldn't expect that to be conducive to a high impact or heavy use either. The second factor of reasonableness that the statutes outline is the benefits and detriments to neighbors, landowners, and surrounding community the applicants proposal for low density residential for one house is one of the simplest low impact unintrusive zoning districts and proposed uses that can be made at this property not only will it not disrupt current uses but is consistent with current surroundings, nor does the proposed use impose on the property such that it will disrupt future uses in the area. For the proposed use the property will for all intents and purposes will continue to sit and wait for the time for redevelopment or a change of use with the city's future plans a house won't stop that. The third factor the relationship between the

actual current and permissible development in the zoning area and adjoining areas and the development permissible under the proposed amendment I have already had a lot of discussion and shared with you a lot of discussion about consistency and compatibility with current and future use I won't belabor that point I think I have made but it speaks to that third factor. The fourth factor changed conditions warranting the amendment. I have told you already that the same zoning just 15 months ago, would have permitted this use and we would not have to be here tonight the simple procedure of adopting the current Unified Development Ordinance caused the Harmon family to lose the right to use their property for residential purposes. Finally, the 5th factor is why the proposed amendment is in the public interest I would say the quintessential manner of enjoying the ownership of private property is to be able to build a home and live on land that you own, it's a minimal if any impact on neighbors and others but it is a basic but fundamental advantage of owning your own property. I would add that when it can be determined based on the particular facts of a situation, that a proposed use such as this one maybe technically inconsistent with the land use plan is a reasonable low impact use and would not other wise or in reality disrupt the spirit of the land use plan, it is absolutely in the interest of the public to favor the free use of private property and private land in the form of proposals like the one before you this evening. With the 5 factors addressed I think that forms the basis for the reasonable use for this proposed land, I would just like to say a few things about the applicant's progress in the cities future plans Mr. Harmon has taken on this process with clear eyes and reasonable expectations, he understands why the city has a comprehensive use plan, he appreciates smart planning, Mr. Harmon appreciates progress and growth in a healthy community. That is not just lip service, he and his wife and family have made this community his mission through time, resources, and hard work on its behalf and in many ways that we see and feel every day in Burlington and Alamance county and beyond. Mr. Harmon understands what is going to happen to his family property one day and he has no interest in stopping it as a responsible citizen he sees as it as inevitable and necessary, but until that time comes there is no need for his property to be held hostage from his desire to build a home and live on it. Summarizing our request Mr. Harmon is requesting 2 acres of his family land from medium industrial to low density residential to build himself a home his request deserves your wholehearted support and recommendation to city council for approval. As it is consistent with current uses of the property and surrounding properties, is generally and historically accepted as compatible with prescribed future uses, it is a reasonable use for all the statutory reasons I set out above and its in the public interest to allow this gentleman to construct a home on the property that his family has owned for 80 years where he grew up, where his son lives now and where he would like to return to enjoy the remainder of his retirement. As always, we appreciate your time and sincere consideration of our client's support, I'm happy to answer any questions that you all have or further discussion on the request. Mr. Harmon is here with me this evening we are here in the office and he is listening, and he is available to clarify any points you all may want clarification on.

Chairman Mr. Richard Parker stated, I have a question, when you began you told which one of the Harmon's are going to build a house, but I got confused with all the references to the Harmons. Who is going to build the house?

Mr. Ryan Moffit stated, Pat Harmon, his son David currently lives in the home that exists on the property.

Chairman Mr. Richard Parker asked, do any other commissioners have any questions for MR. Moffit?

Mr. Ryan Kirk stated, I would like to hear a little more about the land use history, the current family parcel as the long skinny driveway and the property is just south of the property we are considering, that parcel is also zoned medium industrial so does this house predate the medium industrial zoning?

Mr. Ryan Moffit stated, yes that house has been there since 1952.

Mr. Ryan Kirk asked, is it nonconforming?

Mr. Ryan Moffit stated, now it is. Okay it seems like the ethical issue we are considering is the family legacy of rights that are on here. they have owned the property and used it longer than our multiple layers of zoning.

Vice Chairman Mr. John Black asked, who owns the other two properties likes 120964, 120965 and 120966? Is that all Harmon property also?

Mr. Ryan Moffit stated,120964 is the Hanford family trust but 65 and 66 are Harmon properties.

Vice Chairman Mr. John Black asked, is the 121183 and 121158 are they all Harmon properties too?

Mr. Ryan Moffit stated, yes sir, so 121183 is actually the property we are taking about, 121184 is just assigned to differentiate between part of it is part of the city and which part is not part of city.

Vice Chairman Mr. John Black asked, 121185 and 131304 are Harmon properties as well?

Mr. Ryan Moffit stated, that parcel is owned by the Hayden Harmon Foundation.

Vice Chairman Mr. John Black stated, you mentioned other use, I assumed you are talking about the Burlington airport, maybe looking at this property somewhere down the line is that a possibility?

Mr. Ryan Moffit stated, I would expect that to be a possibility, I believe that is speculative.

Vice Chairman Mr. John Black stated, that is what I am trying to determine because if Mr. Harmon is aware that is going to be on the books sometime down the road the question would be, is it prudent to build a house on property that you know somebody is going to want to probably tear down if they wish to develop. I haven't had time to contact someone from the airport authority to see if this is a long term plan I do know that Burlington's growth is tied into the airport and that the airport is a very important cog in our development and that is the only thing that I am worried since you made a statement that Mr. Harmon is aware what is coming down the line and his dedication to this area the idea of building something that Burlington will have to pay extra for to have it torn down and then again with out having access to someone the airport authority to see if this is a parcel they are interested in long term.

Mr. Ryan Moffit stated, all fair points I will say as we always do, we contacted adjoining property owners that included the airport so had a conversation with Mr. Danielly about this, I am not going to speak for him on his plans, but we did have a conversation, Mr. Harmon is aware that this property is not going to remain its current character, his desire to use his property while he still can is pretty strong that is really the crux of why we are here. it is still his property until someone buys it from him or condemns it and when that time comes, they will have to pay for whatever is there, but he is certainly entailed to make reasonable use of it until that time, appreciating what the cities plans are. Does that address what you are looking for?

Vice Chairman Mr. John Black stated, I don't know what I am looking for, I am just throwing some thoughts out trying to grasp what is in the best interest of everybody involved, your client plus the City of Burlington so I am just throwing these thoughts out.

Mr. Ryan Moffit stated, I cannot emphasize enough the importance of public interest here and the fairness aspect, if we all know and accept the future use of this and Mr. Harmon would like to make use of it until that time it is not going to disrupt any plans in any measurable way, I think that deserves serious consideration because it will not disrupt the cities future plans.

Commission Member Mr. James Kirkpatrick stated, I know you said you wouldn't speak for the airport, but I am interested in knowing what they said.

Mr. Ryan Moffit stated, there is interest in the property, but that conversation has not been had and is not ready to be had.

Commission Member Mr. James Kirkpatrick stated, Mr. Harmon is aware of what he is getting into.

Mr. Ryan Moffit stated, he is aware.

Chairman Mr. Richard Parker asked, is there any more questions from the commission. Mr. Joey Lea is now open to present staff perspective.

Zoning Administrator Mr. Joey Lea stated, the land within the area is industrially zoned, this request for residential is inconsistent with the land use plan and therefore is recommending denial of the request.

Chairman Mr. Richard Parker stated, we see that in your staff report. Do you believe that having one house beside another defeats your plan for the area?

Zoning Administrator Mr. Joey Lea Stated, we have to look at it as an area as a whole, and the potential industrial growth

Chairman Mr. Richard Parker stated, the area out there to m with the bridge road (Tucker St) that goes over the interstate, there is no access to the interstate there and I have always felt like that was a deterrent to industrial development in that particular area because of the interstate access I know you get on and off from Alamance rd., I have just noticed that over the years. There are a few things out there already including the airport. Any other comments? Any public comments?

Planning manager Mr. Conrad Olmedo stated, there are two members from the public, first we have Mr. Rich Mossman.

Mr. Rich Mossman stated, my name is Rich Mossman I'm with CBRE I represent near by property owners on a nearby parcel 1931 Hatchery Rd, Cal Lassiter, Ryan you did a great job I think from an American Citizen standpoint you never want to preclude someone from building on their land especially with their history. I'm all for it if the commission decides to do that but I think in the bigger picture our parcel is 33.3 acres around the corner and we have been approached by a lot of residential developers and we have always gotten shot down at least going in back channels talking about residential neighborhood being put in there. We have always been directed that needs to be an industrial building or an industrial park. I just wanted to say that we are listening, and we are on and we would like to be considered as well for having a residential component.

Mr. Dan Danielly stated, working currently on land use and safety at the airport to purchase advocacy easements from landowners within the next 12 months which will include these properties we are discussing tonight we may want some of that in feet, we are not sure about

that yet until engineers finish their work, but we do know we will need some advocacy easements which means a certain area above the ground that we will want. So, if Mr. Harmon is building a home it will be a concern for how tall it would be how it will work with what we need after the engineers have completed those type of things, we definitely want some advocacy easements.

Commission Member Mr. James Kirkpatrick stated, can you explain what an advocacy easement is, is that a certain height above the ground.

Mr. Dan Danielly stated, imagine taking off in an airplane coming up at an angle, the closer to the runway that you are, the closer to the ground and the further away the higher up so we purchase advocacy easements which basically means it's a right of way that the landowner would not build anything taller than a certain height.

Commission Member Mr. James Kirkpatrick stated, what is that height?

Mr. Dan Danielly stated, that is what engineers are working on now, the closer to the runway the closer to the ground and the further away the higher off the ground, and we have atramentous amounts over the village of Alamance on that end and we are now working on the advocacy easements on Burlington's side.

Commission Member Mr. James Kirkpatrick stated, didn't you just extend the runway out towards this property a couple of years ago.

Mr. Dan Danielly stated, we did, in 2012 we extended it, it was the second extension and that took us to 6400 feet, and we do now have another planned extension and it is in the distant future to take it to 7000 feet and if we extend the current property would not be essential to us because we would go beyond it but where the runway is now. We would definitely want some advocacy easement, but I don't know yet about the fee part it could be that we do not.

Chairman Mr. Richard Parker stated, the easement though would just be for height off the ground it would not be a condemnation or a taking of the house. They could still live there but their trees just might be short.

Mr. Dan Danielly stated, that is correct again over the village of Alamance there were so many years trim the trees. As long as nothing impedes that height.

Chairman Mr. Richard Parker stated, the engineers that are working on that now, would determine the height of a building at that location once they determine the easement, is that correct?

Mr. Dan Danielly stated, yes, we have already applied for an amount of funding approved to move toward this so now the engineers are doing their final design work which basically follows the FAA guidelines for the types of approaches entering the airport and the types of departures leaving the airport, the distances from side to side etc.... There is a lot to it because if an elevation ground level at a particular site is lower than the runway level, that adds space that someone could build in height whereas if an elevation is much higher that takes await spec, so all of these things are being studied right now. To see what each parcel will be needed and how it will be needed.

Vice Chairman Mr. John Black asked, so it is safe to assume that the city of Burlington is not looking toward this property in the future for building or extending runways, your concern is just a right of way in the airway, right?

Mr. Dan Danielly stated, that is correct.

Vice Chairman Mr. John Black asked, would it be prudent to wait until this report is finished?

Mr. dan Daniley stated, well it would make it easier to show the builder anything they need to conform to.

Vice Chairman Mr. John Black stated, and you say it will be done in 12 months?

Mr. Dan Danielly stated, yes sir. I could possibly have the study done for those particular parcels put that upfront to try to get some answers sooner.

Chairman Mr. Richard Parker asked, Mr. Moffit do you know the height of this structure?

Mr. Ryan Moffit stated, 1 or 2 stories, or a ranch it will be a normal conservative house.

Commission Member Mr. Ryan Kirkpatrick asked, Mr. Moffit the house that is closer to the airport that is currently standing, how tall is it?

Mr. Ryan Moffit stated, it has tall ceilings, but it is a ranch style.

Chairman Mr. Richard Parker asked, are there any other questions for Mr. Danielly or for the staff?

Mr. Ryan Moffit stated, I can appreciate what Mr. Mossman is saying but I would like to distinguish the Harmon family has no desire to do residential development as Mr. Mossman and his clients are looking for with their property, this is a one-off stand-alone home and to just link that with discussion about the future with the airport, it sounds to me like this is exclusively an airport deal, so we know where this is going. It's a recruitment for industrial development we know where this is going. Mr. Harmon would just like the ability to make decisions about how he uses his property. He wants to use this land as his home until it is sold and condemned however it is played out, he would like the opportunity to use it to his will, consistent with the way they have used it up to 15 months ago.

Mr. Bill Abplanalp stated, I move we recommend approval of this request to rezone from MI Medium Industrial District to LDR Low Density Residential District. The properties are located on the south side of Hatchery Road approximately 2,200 feet east of Alamance Road, referenced as Alamance County tax identification numbers 121184 and being a portion of 121183.

The motion is based upon the consistency of the proposed rezoning with the Comprehensive Plan, in that:

- The Future Land Use Map in Section 4 "Land Use" of the Comprehensive Plan calls for this area to have industrial uses.
- The request is compatible with the adjacent residential uses.

This action is reasonable and in the public interest in that:

- The Comprehensive Plan calls for industrial uses in the area.
- The request is compatible with the existing zoning and land uses in the area.

Commission member Mr. Earl Jagers seconded the motion.

Ayes: Parker, Jagers, Abplanalp, Kirk
Notes: Kirkpatrick, Black, Enoch

Approved

ITEM NO. 4:

Chairman Mr. Richard Parker stated, Mr. Trey Riddle to present a request to rezone from MDR Medium Density Residential to PD planned Development District for the use of a 205-unit multifamily development. The property is located at 1408 St. Marks Church Road referenced as Alamance County tax identification numbers 106976.

Mr. Trey Riddle stated, I'm Trey Riddle this is request at 1408 St. Marks Church Rd, the subject property is 6.8448 acres. The property has been through the technical review committee with the city of Burlington and has been approved by the staff the approval letter is included in your package the modification from MDR to planned development standards set forth in this plan will allow for apartment products that will allow for the transition from MDR to the North and Conditional business in the south. The site in question is physically located between an existing retail center to the south, that is Alamance crossing and a single residential subdivision to the north I view the subject property as a place maker for the over all area and when viewed independently I believe it provides a pivotal part in the land planning component. The project itself will act as a screen between residential area to the north and the commercial uses to the south the residential nature of the proposed PD will offer architecture that is visually pleasing with both the front and rear elevations of the structures and believe this is the highest and best use for the site the pd zoning will provide higher quality than the UDO will provide on its own, in order to meet this requirement I have committed to 5 foot sidewalk connections from the site to Joe C Davidson park and Alamance Crossing shopping center these connections will eventually tie into the greenway trail that has been composed on the conceptual master plan, enhanced landscaping will be provided with two canopy trees, four shade trees and 15 shrubs every 100 feet along the residential lot lines. The street buffer will contain two canopy trees and two under story trees per 100 foot a long the street frontage. In addition, four of the canopy trees located along the street will be of a 6-inch caliber which is much larger than the UDO requirements. In addition to the landscaping and pedestrian improvements, I have also designed the façade of the buildings that front set marks church rd. as primary wall which will greatly improve the front of the property for the aesthetic of the road. Finally, there is an advanced open space element with the addition of urban open space shown in the concept in the upper left-hand corner that will be available to the public. Equally as important to me and in conjunction with the city of Burlington a 15 by 15 ft easement will be dedicated to the city to construct a bus shelter and a bus stop will be added to the city bus route for this location, I held a neighborhood meeting on February 9th in which I discussed the site with neighbors to address concerns and questions about the zoning application. At that meeting it was expressed that neighbors would prefer a high-density residence opposed to more retail. In that meeting I agreed to put a up and fence and limit the greenway interference in their daily lives as they all agree, and they see that the public trail as unnecessary and to them as dangerous in fact they do not want access to the greenway trail as they quickly pointed out that there is already a green way trail to the north of this neighborhood that already provide an access to the park for people in the area. It is in the proposal that the city provide a greenway trail to run through there and as such I have placed it on the concept plan in reviewing the Burlington Comprehensive plan, I believe that more intensive commercial options of the future land use plan designation of regional commercial which is what this overlay of this site is are not appropriate for the site. What is an appropriate use and is in line with the future land use plan would be the designation defined by the comprehensive plan which allows for High density residential multifamily residential, that encourages bike and pedestrian connectivity to surrounding areas? I want you to know that is a use under regional commercial from the comp plan its just that obviously a lower intensity uses than a retail or commercial use. I feel that this supports our role that will benefit future residents of the community and current residents

of the original existing residence and community in the area, in addition to our neighbors to the south with Alamance crossing. In view of the surrounding development of the site it is similar use as Retreat at the Park which is located at 122 Rural Retreat lane and The Chase apartments located on 3508 Garden Rd. Both developments are within 500 feet of the proposed development.

Chairman Richard Parker stated, did you say you are erecting a fence for the trail and neighbors don't want to use it?

Mr. Trey Riddle stated, yes sir, I had a meeting with the neighbors February 9th at 6pm, which I think is very important and the biggest thing I wanted to do here, we had an open conversation, that was one thing and another was location of trash receptacles. They had a previous concept where we plan to put it now is on the commercial lot line and is no longer an issue. Directly concerning the greenway, they had a few concerns and access, regarding their lots both their lots and their streets and from our discussion, there is going to be a large buffer 25 feet wide and with vegetation but in that conversation, they wanted an additional fence, I agreed to give them a fence to create a physical barrier. They did have some concerns about the greenway specifically which I would like to address for them because they obviously see it as a potential burden, safety concern and also, they do have access to an existing greenway which is just to the north of this block.

Chairman Mr. Richard Parker stated, what is the height and the construction of the fence?

Mr. Trey Riddle stated, we have not discussed the material, I would like to have a discussion with them in concerns with what the material should be, with that being said I'm open to material suggestions, I would like for it to be attractive obviously. This will go back through formal plan review and that will go through all of those formalities will be on paper and will be further reviewed by the city

Commission Member Mr. Ryan Kirk stated, can you give us some more information about the transportation and the parking spots for 200 units, we have talked over the years about the concern of traffic on this particular two-lane road St. Marks

Mr. Trey Riddle stated, DOT has discussed this as part of the TRC process so in order for me to get a driveway permit or any egress on the side, there are road improvements that I have to make for DOT that includes a designated left hand turn lane, a center lane, and a decal lane, so we will be improving the road.

Commission Member Earl Jagers stated, I like the sidewalk.

Chairman Mr. Richard Parker stated, I know you like those 5 ft sidewalks. Is there any bike storage on this particular property?

Mr. Trey Riddle stated, yes sir in the UDO there is a new requirement for bike racks, I believe it is 1 for every 20 spaces we will be addressing that and depending on the construction there is potential for there to be in door parking as well. As you know with these communities now, they are very amenity centric so if the tenants want it which I feel like they might, that might be a component as well.

Chairman Mr. Richard Parker stated, I believe you are the first developer that is incorporating the bike storage everyone else has been grandfathered in, so we are checking on bike storage now.

Vice Chair Mr. John Black stated, Trey the fence that you are talking about, I assume it goes all the way from St. Marks church all the way to the commercial property?

Mr. Trey Riddle stated, yes it will be going from the one end of St Marks and Rural Retreat to the northwestern most point of the traffic and then it would run along the shared residential lot line.

Commission Member Mr. Ear Jagers asked, the crosswalk, will it be lighted or run at your own risk?

Mr. Trey Riddle stated, I think the via DOT I will have to designate as a touch.

Ms. Charlotte Fitzgerald stated, my name is Charlotte Fitzgerald and I have lived in my home for nearly 40 years and this nice quite almost retirement neighborhood and we are a little bit concerned that we will be overwhelmed, I'm at 1508 Willow Dr. two blocks off of St. Marks. We have The Chase apartments and the hotel over there and we can see it, I'm on the back side, I have about a 200 ft borderline with this property we are talking about so I am directly concerned, the height of buildings, the back side of the Chase apartments has allowed a juggle and apparently the city can't do anything about the juggle, it dents have to be kept in any form. They have their rating of R-9 they have built all of the apartments they can build and the rest of it has all gone down. My question is what is the height, how many stories are these buildings going to be?

Mr. Trey Riddle stated, I would like to point out that Ms. Fitzgerald was at the neighborhood meeting. The proposal is for up to four stories and then I would also point to two things; one there is a massing buffer requirement for any building that is built within 100 feet of a residential lot line that requires that building to be setback 100 feet from that lot line if it is greater than 2 stories, so a three story it must be 100 feet from the bordering residential lot line. The second thing is that there would be no visual issues the 100 ft buffer is quite substantial. The second thing I would like to say is there are different construction types with a 3 story and 4 story building, a 4 story requires it to be elevator serviced which we would not do for the entirety of the site because it is much more costly, we would have to install elevator towers and the elevators and then maintain them. Most likely what would happen on the site is a 3-story building visible from all neighbors but will be a shorter construction type.

Ms. Charlotte Fitzgerald stated, I know this property is sort of an incline off my house, would that be leveled off and filled in or is the height of the buildings going to be from the ground where it is now?

Mr. Trey Riddle stated, there will have to be some site work done, I can't give you a precise location because I haven't had a site contractor come and do a full grading but the site would balance we would cut some of the higher areas and fill some of the lower areas depending on the foot print of the building with that being said we will try to use the natural lay of the land as much as possible because we have to drain the site the same way that the site currently drains.

Ms. Charlotte Fitzgerald stated, so it is possible that some of the buildings will be lower because you are going to have it all one level.

Mr. Trey Riddle stated, it is possible yes ma'am. There is not a substantial amount from the higher side to the lower side its not something we can't overcome but there is over 10 feet fall there would be some graduality to the site to how the buildings are laid out.

Ms. Charlotte Fitzgerald stated, my other concern is that when they rezoned from Chase apartments they went to R-9, how does this compare to the concentration of population?

Mr. Trey Riddle stated, I don't believe that R- 9 is a current code.

Mrs. Charlotte Fitzgerald stated, how does it compare to high, low, and medium density?

Mr. Trey Riddle stated, I would have to have the city talk to the because I don't know, because R-9 can mean something different to different municipalities.

Mrs. Charlotte Fitzgerald stated, it means 1 residence every 9000 feet.

Mr. Trey Riddle stated, in Wake County it means 9 residential units per acre, so it does have different meanings. I'm looking to the city for that I don't know.

Director of Planning and Transportation Mr. Mike Nunn stated, they were just translated to the new terminology, we have low medium and high and R-9 would be in medium density. The proposal is high density.

Ms. Charlotte Fitzgerald asked, what would high density residential be defined as?

Planning Manager Mr. Conrad Olmedo stated, high density would be 30 lots per acre.

Ms. Charlotte Fitzgerald asked, how many acres is this lot?

Chairman Richard Parker stated, 6.844 acres.

Ms. Charlotte Fitzgerald stated, do you propose to have a basement.

Mr. Trey Riddle stated, no we don't intend to have a basement but because of the lay of the land there maybe some below grade compared to the other buildings but there will not be a true basement, in North Carolina you have to have an accessible unit in every dwelling unit.

Ms. Charlotte Fitzgerald stated, okay I lived in an area with a townhouse that had a basement it was very convenient, so we were only two floors above ground let a little more sunlight into the neighbors but any way we don't like to be crowded in. I have a jungle about 300 feet on my back property line that chase apartments owns and there is nothing I can do about they told me they couldn't make them cut it. I don't want to be in the shadows on the south side of my property I would like to see the sun occasionally. Thank you very much.

Chairman Mr. Richard parker stated, thank you very much for your comments, Conrad is there anyone else?

Mr. Jonathan Mann's stated, my name is Jonathan Mann at 1303 Willow Oaks Drive on the corner of willow oaks and Peeler. My question is that I want to make sure that Willow Oak Dr. will remain dead end, I know that plans change, so I wanted to make sure that the plan is still to keep it as a dead end.

Mr. Trey Riddle stated, yes sir the ingress and the egress are both on Saint Marks Church Rd., which is an interior wing road, so it will not come from Willow Oak or Berkshire.

Mr. Jonathan Mann's stated, okay thank you that is great.

Mr. Brian Wagner stated, my name is Brian Wagner at 1304 Willow Oak rd. I wasn't able to make the February 9th meeting, my first question is concerning the sewer connection I know there is a connection at Alamance crossing and at the southeast corner of the proposed property. Would the development prevent the eventual extension of that line to serve Willow Oak Dr.

Mr. Trey Riddle stated, no sir, I think that will actually probably help that as that is our proposed sewer tie in which means it will be taken up further and closer to your homes.

Mr. Brian Wagner stated, so the retention pond won't hold up the extension?

Mr. Trey Riddle stated, if the retention pond goes where we want and if it moved it would be even easier. The difference between me moving the retention pipe and it is going exactly where we want it to be would be a change and use of material. With a retention pond that would mean a duct line pipe opposed to PVC so there would be no issue there.

Mr. Brian Wagner stated, thank you and as far as construction traffic is there anything in place to keep trucks from using Berkshire or Willow Oak and restricting that to St Marks.

Mr. Trey Riddle stated, the easiest construction entrance would be off of St. Marks Church, we have to grade from the back of the lot to the front and with the Greenway and the retention Pond we would need to lay a gravel land. So, the best entrance will be off of St. Marks church and it will eventually become the main entrance.

Mr. Brian Wagner stated, so there isn't any chance of any tractor trailers dropping off any equipment or anything using Berkshire or Willow oak?

Mr. Trey Riddle stated, no Brian from a practical standpoint of the first equipment on site, which is just going to be dirt moving equipment that will probably go on the existing driveway for the original house on the site.

Mr. Brian Wagner stated, is there anything that is in place to prevent light pollution I know you are going to have well lit parking lots and well-lit buildings. Are there any measures to limit the light pollution?

Mr. Trey Riddle stated, there is nothing in the Udo that addresses that but if there is, we can take that into consideration. From the standpoint of a lighted parking lot, the parking lot will be lit for safety, we can certainly look at having a shut off for them.

Mr. Brian Wagner stated, of course safety comes first but just concerned there won't be a spotlight coming into the homes on Berkshire and Willow oak.

Mr. Trey Riddle stated, yes and there won't be anything like that, from the shared lot line there is a 100-foot buffer so interior lights on in rooms they will be more than 100 feet away from you and when we finish a product, we finish with blinds etc.... as everyone does, we close our blinds.

Mr. Brian Wagner stated, this question is for the city with the traffic and St. Marks Church being able to handle an additional 205 residents, I understand that DOT has had discussions getting those designated turn lanes for the excel lanes but St. marks as is, is already busy, we have that new development that seems to be stalled close to south church street, is there the ability to expand St. marks or any ort of traffic measures to help with the traffic situation on that road that may be exacerbated by this development.

Director of planning and transportation Mr. Mike Nunn stated, yes this is Mike Nunn I can speak to that you are probably aware of the intersection reject the NCDOT just completed at St Marks And Church str, that cross section, there is an additional project that will go south all the way to Boone Station rd. That is an NCDOT project that is not funded at this time but is the plan for the future of this roadway. With this development they will be required to put in right turn lanes which moves traffic out of the free-flowing traffic of St. Marks which will require a left turn lane in the middle of saint marks which gets the Vehicle out of the free-

flowing traffic. That is typically what we do and NCDOT does, we want to get that traffic out of the way to let the through traffic flowing. That is a requirement that they are going to be installing and then I don't NCDOT but in the future additional widening of St. Marks will go South.

Mr. Brian Wagner stated, okay, Mr. Riddle at the beginning of your presentation you mentioned that at your February 9th meeting that there was an agreement among the neighbors that the residential development would be better suited than commercial development which I understand is how it would be currently allowed to be developed. I just want to make a distraction their residential development yes but there are levels of residential development and if we are talking about a four-story apartment complex next a single-story home, you are getting much closer to commercial development at that point, these apartments will be presumably rented out to a corporation similar to how most of the other new ones are Retreat at the Park I believe is a three-story development from what I have seen. In terms of being in tune with the neighborhood a four-story development and based on your plan with the elevators I don't see the 4 story buildings being a threat I see it being a central building and that of course is a building that is closer to the neighbors. What comfort can you provide if any, in limit that impact in terms of the neighborhood.

Mr. Trey Riddle stated, the way that the center building is, is pretty straight forward, it's not four stories.

Mr. Brian Wagner stated, right but if you had to get permission you would be able to make that center building four stories correct.

Mr. Trey Riddle stated, yes in theory we would also be the parking site which would be the limiting factor because the city has a parking requirement per unit and that is something to consider with a site of this size and then to your point on tenancy there is a very small contingency or renters that are companies. They are individuals.

Mr. Brian Wagner stated, I am not talking about a company renting several units at the site but a company owning the site.

Mr. Trey Riddle stated, okay yes I understand sorry for that confusion, and to touch on your earlier point, I know you weren't able to attend the other meeting but there was a comment made that we obviously don't want to see this site developed, everyone I resistant to change, regardless of what it is but the feedback was that we are glad that there is not going to be more big box retail here and that is my point brain here in this transition and this land uses having a product that has an architectural design, that is not commercial that is similar to single family homes Nd provides a buffer between a big box retailer that could go in the future land use plan and would be an allowed use for the this particular site so this is a lesser use than that future land use. Still within the same category however allows for that transition.

Mr. Brian Wagner stated, yes, it is lesser but in terms of the extreme it is less than, would town homes not be a more transitional development.

Mr. Trey Riddle stated, town homes are not the proposal and town homes are not the highest and best use sir because here is the thing, we are doing a PD so it's not a straight rezoning. I have worked it the technical review committee for 6 months and they insured that the city is heard and what it wants to see from connection because connectivity is the biggest thing here that this site can provide is addition housing and housing of lesser density it doesn't have the financial capability of doing that so I don't think that town homes or anything lesser would be an appropriate use it would not be the highest and best use and also would not be in with accordance with the Burlington comprehensive plan.

Mr. Brian Wagner stated, if this is approved will the development be completed in a timely manner.

Mr. Trey Riddle stated, if we start the project, we are going to finish the project.

Mrs. Donna Campbell stated, 1334 Berkshire Rd, Lisa Bowes is also here with me, I would like for her to speak first we share a lot of the same concerns and questions.

Ms. Lisa Bowes stated, 1318 Berkshire Rd. most of my questions have been answered successfully but I have some more. As you know St. Marks Church has a preschool and they use Peeler for drop off, many times they use our two roads if there is an accident. Can we get a sign that says no through traffic when the apartments are completed to prevent people from using the roads?

Director of Planning and Transportation Mr. Mike Nunn stated, are we talking about a 'dead end' or 'no outlet' sign, we can look into that right now.

Ms. Lisa Bowes stated, I have one more concern Mr. Riddle I know you were thinking about fencing, will it be a solid material but about how tall will it be.

Mr. Trey Riddle stated, it depends on what the neighbors want, if the neighbors want a privacy fence, it is within reason to do a 6-foot privacy fence.

Ms. Lisa Bowes stated, that is what all the neighbors would like.

Mr. Trey Riddle stated, if the city concurs, I have no problem with it, I do understand that you would like to be heard on that and I understand your concern. If that is what you are looking for then that is, we would like to do.

Ms. Donna Campbell stated, I want to echo about not opening Berkshire Rd. and not opening Willow Oak. I am directly next to the development I would love the privacy fence; I don't want to feel like the users of the greenway are looking into our windows and sunrooms. I have lived here 41 years and many of us have lived year that many years or longer. We are used to our privacy and feeling safe on the dead ends and I would like for that to be maintained.

Mr. Trey Riddle stated, this is something we can definitely do with the fence and the ingress and egress will definitely be on St. Marks Church, that has already been handled.

Ms. Donna Campbell stated, there won't be any gates onto Willow Oak or Berkshire.

Mr. Trey Riddle stated, I would prefer to run a straight fence instead of gates with access to the greenway.

Ms. Lenora Saunders stated, I live at 1326 St. Marks Church Rd. The meeting held on February the 9th why was everyone not notified about that meeting, and I knew nothing about it until I heard just now.

Mr. Trey Riddle stated, we were given a list, there were 25 people on that list to be notified.

Ms. Lenora Saunders stated, according to the letter I got from the city of Burlington I live with in 300 feet from where these apartments are being built, my concern is we have enough apartments out here, I would like to go back not even 40 years when I first moved out here, even 20. Ever since we have been taken into the city limits, we have had nothing, but more things built more traffic on this road. I remember going to the meeting when they were going to build university Drive that we had nothing to worry about that people wouldn't use St. Marks

they would use University Drive to get to Elon, I don't know what they were thinking or who they thought they were fooling, it is easier to get to Elon on St. Marks than it is to go on University. What are we going to do to get out of the driveway because traffic is so horrendous?

Director of Planning and Transportation Mr. Mike Nunn stated, St. Marks is one of the busiest roads there has been a lot of growth, the mitigation offered by the developer is the maximum he can provide NCDOT approved that, there will continue to be more traffic out there unfortunately. It is a popular area, and it has changed a lot in the last several years, it is a major thoroughfare, and it does need improvement but the impact that this site providing they are also providing mitigation in those turn lanes.

Chairman Mr. Richard Parker stated, do we know how many cars can stack up in that center lane.

Director of Planning and Transportation Mr. Mike Nunn stated, we have not gotten into the design yet, all that will be handled after the concept plan. It will have to meet technical standards.

Mr. Tom Riddle stated, what I will do is actually connect the center lane at either ends. So, there will be a designated turn lane for that entire stretch. It is not a huge section; it is a few hundred feet but what it does is provide a missing link in completing that whole section.

Ms. Gay Henshaw stated, Gay Henshaw 1338 Willow Oak Dr., at the February meeting he did not mention anything about the bus stop, and I do not feel good about having a covered bus stop, it will bring all kinds of people to this area that don't need to be there.

Mr. Trey Riddle stated, the bus stop is something that the city wanted from a public transport standpoint, I think it also is a great amenity. That is a very nice park and I think there are folks that should be able to use that park, that can not provide their own transportation and it gives them the ability to do that in a safe way with the use of the 5-foot sidewalk that I am extending. I think it is a public good.

Ms. Gay Henshaw stated, why can't you just put it at the park then?

Mr. Trey Riddle stated, to my understanding there is not currently a bus line that services that area. Maybe there will be one at the park, but I think that is a benefit for my residence, the park and the shopping. It's a great source of connectivity between shopping and the park. Another thing is the city will have to get an easement and I would agree with that.

Zoning Administrator Mr. Joey Lea stated, staff has worked extensively over the last year to make this project better than what it would be by meeting our general standards which is the standard for a planned development. The land use plan calls for general commercial, which the commercial does allow multifamily uses, the multifamily use is compatible with the surroundings. This use is also compatible with the city's pedestrian and greenway plan with that staff is recommending approval of this rezoning.

Commission Member Mr. Ryan Kirk stated, let's keep reiterating the traffic issue for the neighbors.

Commission Member Mr. James Kirkpatrick stated, the Planning & Zoning Commission believes this request is consistent with the Comprehensive Plan and moves to recommend approval.

I move we recommend approval of this request to rezone from MDR Medium Density Residential to PD Planned Development District for the use of a 205-unit multifamily development. The

property is located at 1408 St. Marks Church Road referenced as Alamance County tax identification numbers 106976.

The motion is based upon the consistency of the proposed rezoning with the Comprehensive Plan, in that:

- The Future Land Use Map in Section 4 “Land Use” of the Comprehensive Plan calls for this area to have commercial uses.
- The request is compatible with the adjacent residential uses.
- The proposed plan complies with the adopted City of Burlington Greenway Plan and Bikeway Plan.

This action is reasonable and in the public interest in that:

- The Comprehensive Plan calls for commercial uses in the area.
- The request is compatible with the existing zoning and land uses in the area.

Commission Member Mr. Earl Jagers seconded the motion

Approved Unanimously

ITEM NO. 5:

Chairman Mr. Richard Parker stated, Mr. Brian Hall to present a request to rezone from MDR Medium Residential District to OI Office Institutional District. The property is located at the south east corner of Grand Oaks Blvd. and Huffman Mill Road, referenced as Alamance County tax identification number 112469

Mr. Brian Hall stated, I am Brian Hall with Summit Corporation, Gallimore Dairy Rd. Greensboro, we are evaluating this piece of property that is on the southeast corner of Huffman Mill and University Drive, I’m sure you have driven by it many times the property has been for sale for a while we are evaluating it for O&I office and Institutional.

Chairman Mr. Richard Parker stated, Mr. Hall how many acres did you say this lot has?

Mr. Brian Hall stated, Roughly 22 acres.

Chairman Mr. Richard Parker stated, this is a straight rezoning is that correct?

Zoning Administrator Mr. Joey Lea stated, yes, it is a straight rezoning.

No Public comments.

Zoning Administrator Mr. Joey Lea stated, the land use plan calls for residential/ agricultural which the zoning for this is not consistent, but it is consistent with the area and would be consistent with the uses in the area. The property across the street was rezoned to O&I in 1997 that was anticipating growth after the hospital was built, this is consistent with what has happened in the area and staff is recommending approval.

Vice Chair Mr. John Black stated, I move we recommend approval of this request to rezone from MDR Medium Density Residential to OI Office Institutional. The property is located at the southeast corner of Huffman Mill Road and Grand Oaks Boulevard, referenced as Alamance County tax identification numbers 112469.

The motion is based upon the consistency of the proposed rezoning with the Comprehensive Plan, in that:

- The Future Land Use Map in Section 4 “Land Use” of the Comprehensive Plan calls for this area to have Rural Residential / Agriculture.
- The request is compatible with the proximity of OI Office Institutional and COI Conditional Office Institutional Districts.

This action is reasonable and in the public interest in that:

- The Comprehensive Plan calls for Rural Residential / Agriculture uses in the area.
- The request is compatible with the existing zoning and land uses in the area.

Commission Member Mr. James Kirkpatrick seconded the motion.

Approved Unanimously

Meeting Adjourned at 9:08 pm

Richard Parker, Chairman

John Black, Vice Chairman