



CITY OF BURLINGTON PLANNING AND ZONING COMMISSION

April 24, 2023 - 7:00 p.m.

*Meetings are held in person at the City Municipal Building in the
Municipal Conference Room (lower level) located at 425 S. Lexington Ave., Burlington, NC 27215*

www.youtube.com/playlist?list=PLX2Do5DiQXzICNpomFiwdSRDY7Dw8sRB

CITY MEMBERS:

Richard Parker, Chairman
James Kirkpatrick, Vice-Chairman
Charles Beasley
John Black
Lee Roane

EXTRATERRITORIAL MEMBERS:

Joan Zec Nelson

MEMBERS ABSENT:

Amber Wright (Alternate)
Patricia Gamble (Alternate)
Ethan Raynor (Alternate)

CITY STAFF:

Jamie Lawson, Planning Director
Conrad Olmedo, Planning Manager
Brianna Smith, Planning Office Manager

AGENDA

ITEM NO. 1:

Mr. Richard Parker, Chair called the meeting to order at 7:00 p.m.

Mr. Parker inquired if there was a Quorum. Mr. Conrad Olmedo, Planning Manager, confirmed that there was a Quorum.

Mr. Olmedo stated that Mr. Ethan Raynor, ETJ Member, was excused from the meeting.

ITEM NO. 2:

Approval of the minutes of the Planning & Zoning Commission meeting held on March 27, 2023.

Mr. James Kirkpatrick, Vice-Chair, made a motion to approve the March 27, 2023 Meeting Minutes.
Mr. Lee Roane, Member, seconded the motion.

All were in favor.

CONFLICTS OF INTEREST:

Mr. Parker inquired if there were any conflicts of interest amongst the commissioners for any of the agenda items. There were none.

ITEM NO. 3:

REZONING-23-007: Mr. Jeff Deal, applicant, to present a request to rezone property from Conditional Business (CB 810) to General Business – Limited Use (GB-LU). The property is located on the northwest corner of the intersection of Boone Station Dr. and Garden Rd. addressed as 3315 Garden Rd. and consisting of Alamance County Tax Identification Number 112655.

Mr. Jeff Deal, Representing the applicant, WL Family LMTD Liability PRTNR. Mr. Deal stated that the original conditional zoning for the property was passed in 2005. Mr. Deal stated that the area had progressed and changed quite a bit. Mr. Deal also stated that the subject property had multiple different businesses in the store fronts while the subject store front had remained vacant for quite some time. Mr. Deal stated that the applicant was working to secure a prospective client who wanted to use the property to open a Bottle Shop, similar to the Mini Dingo in Downtown Burlington. Mr. Deal stated that in meetings with City of Burlington Staff, the current zoning isn't consistent with proposed uses and a rezoning would help better serve future tenants.

Mr. Kirkpatrick inquired if the prospective client was going to open a Bar. Mr. Deal confirmed a bar would be in the location with retail of alcohol as well.

Mr. Parker stated the commission typically requested applicants to limit the number of potential uses and inquired if the applicant had done so. Mr. Deal stated that they had done so and mentioned the concerns staff had about eliminating potential uses but didn't want to remove certain uses for future opportunities.

Mr. Parker inquired if a high school could be considered to be there. Mr. Deal stated that use was targeted towards if part of the building would be repurposed for a High School. Mr. Deal also stated that if the uses are problematic, they would be willing to remove them.

Mr. Kirkpatrick inquired about the proposed hours of operation. Mr. Deal stated it would be closed by 9 p.m.

Mr. Roane stated it sounded similar to For All Occasions Wine Shop. Mr. Deal stated he was unsure of what exactly the potential tenant was planning to do. Mr. Roane stated that the Bottle Shop was similar to For All Occasions and Mr. Deal affirmed in reference to the wine dispenser.

Mr. Kirkpatrick stated that to allow the bar to come into the large space available, the applicant needs it rezoned. Mr. Deal affirmed and stated that he wanted the rezoning to enhance the area.

Ms. Zec Nelson inquired if there was a specific meaning regarding a Bottle Shop and if it meant a particular type of alcohol would be available. Mr. Deal stated most likely wine or beer would be sold.

Ms. Lawson stated the Unified Development Ordinance's (UDO) definition of bottle shop, which states that it includes sealed container alcohol sales. Ms. Lawson stated that the business would be subject to North Carolina state laws and licenses. Ms. Lawson stated that in addition to the Bottle Shop they are proposing 68 out of 119 uses from the GB- LU zoning which takes out almost half of the uses.

Mr. Parker stated he didn't see any uses that would upset the area.

Mr. Black inquired if they had heard from neighbors. Mr. Deal responded that they had not.

PUBLIC COMMENTS:

There were no public comments.

PHONE CALLS:

Staff stated no phone calls came in about the property.

DISCUSSION:

Mr. Black stated that he was concerned about Sylvan Learning center being in close proximity to the sale of alcohol.

Mr. Parker inquired if there was a learning center on the property. Mr. Deal stated yes, and it was on a different side of the property that the proposed Bottle Shop.

Mr. Black inquired if the Karate Center still had daycare and stated again that he was uncomfortable with alcohol sales being near children. Mr. Deal confirmed that it did.

Ms. Lawson stated that any of the proposed uses would be subject to the Use Specific Standards from the UDO. Ms. Lawson also stated that the Bottle Shop falls under the same use specific standards as a Bar or Cocktail Lounge. Ms. Lawson stated that there is a distance requirement for the Bottle Shop to be 200' from a school or religious institution.

Mr. Roane inquired about the entrance to Sylvan was and where the Bottle Shop entrance would be. Mr. Deal clarified that the entrance to Sylvan and the martial arts studio was on Boone Station Dr and the Bottle Shop entrance would be on Garden Rd.

Mr. Parker inquired if the Bottle Shop met the 200' distance requirement. Mr. Deal stated he had not measured it and did not know. Mr. Parker stated it appeared to meet the requirement.

Mr. Kirkpatrick stated and clarified that Sylvan Learning Center was a learning enhancement center and not a school itself so it wouldn't have to meet the distance requirement.

Mr. Tom Boney, Alamance News, inquired if City Staff had measured the distance and if they had an opinion about whether it is within the 200' distance requirement. Ms. Lawson stated that staff had not measured the distance and that they did not have an opinion.

Mr. Boney inquired if the hours of the Bottle Shop would be the same as Sylvan. Mr. Deal stated that Sylvan finishes around 8 p.m. on Monday- Thursday's and Saturday Mornings only.

Ms. Zec Nelson inquired about when the Bottle Shop would open. Mr. Deal responded that they were unsure and hesitated to say exact times but recalled it would be open on Sundays until mid-afternoon and on the weekends around noon.

Ms. Zec Nelson inquired if it was to include a sit-down bar and purchasable to go drinks. Mr. Deal confirmed that you would order sealed containers of alcohol and a sit-down bar.

STAFF RECCOMENDATION:

Ms. Lawson stated that the proposed General Business– Limited Use (GB-LU) zoning district is consistent with the Land Use Plan, which calls for this area to be Regional Commercial. Staff recommends approval of the rezoning request based on the Land Use Plan, per Option 1, as provided in the Consistency Statements Sheet.

MOTION:

Mr. Roane made a motion to recommend approval of the request to rezone property from Conditional Business (CB 810) to General Business – Limited Use (GB-LU). The property is located on the northwest corner of the intersection of Boone Station Dr. and Garden Rd. addressed as 3315 Garden Rd. and consisting of Alamance County Tax Identification Number 112655.

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 Regional Commercial uses.
- The request is compatible with the adjacent commercial and residential uses.

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

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

Mr. Kirkpatrick seconded the motion.

VOTE (4-2):

Approved by (Parker, Kirkpatrick, Beasley, and Roane)

Opposed by (Black and Zec Nelson)

The motion to approve was passed 4-2.

ITEM NO. 4:

CONDITIONAL REZONING-21-003: Mr. Ryan Woods, applicant, to present a request to rezone property from Light Industrial (LI) to Conditional Industrial (CI). The property is located on the east side of Holly St. north of the intersection of Holly St. and Maryland Ave. addressed as 0 Holly St. and consisting of Alamance County Tax Identification Number 138264.

Mr. Toby Coleman, Attorney for Duke Energy, stated that the request was to rezone 1 of 3 parcels of Duke owned land. Mr. Coleman stated that the rezoning was to allow for a telecommunications tower to be built and indicated where it would be on the property. Mr. Coleman gave a brief description of the zoning of the property and in the area and indicated on the map what land was owned by Duke. Mr. Coleman stated that the rezoning was consistent in the area. Mr. Coleman also stated they were requesting to build a 350’ tower which is taller than what is currently allowed by the UDO. Mr. Coleman gave a description of the uses of the tower and explained what Duke planned to use it for and stated that they needed the particular height to be able to increase bandwidth and connect to more substations. Mr. Coleman clarified

that the rezoning was a conditional use rezoning with City Staff. Mr. Coleman stated that the tower would have an 87' setback from Holly St. Mr. Coleman stated that the tower was engineered so that it would fall in on itself if instead of over.

Mr. Parker inquired if the tower would fall over. Mr. Coleman responded that it was engineered to collapse in on itself.

Mr. Coleman stated that there was an 87' setback from the street and 145' from the apartment structure. Mr. Coleman stated that the tower would be able to withstand 199 mph winds.

Mr. Coleman stated that they couldn't put the tower anywhere else on the property due to contaminated soil and due to a truck bay, that is also on the property. Mr. Coleman also indicated on the screen where the contaminated soil was.

Mr. Parker stated it felt out of place for the area.

Mr. Coleman stated that they had proposed a 10' landscaping buffer. Mr. Kirkpatrick inquired about how tall the trees would be. Mr. Coleman stated it would mainly be shrubs installed with a fence. Mr. Coleman stated that they had also submitted FAA lighting studies.

Ms. Zec Nelson inquired what the soil was contaminated with. Mr. Coleman stated that the property was the home of an old gas manufacturing plant and that gas and heating oils are potential contaminations.

Ms. Zec Nelson inquired about possible threats to the tower besides wind. Mr. Coleman stated that ice was a potential threat and that it would collapse into itself. Mr. Coleman stated that all towers had to be designed with a fall radius and stated that the UDO requires that for every foot of height you have to have a foot of setback. Mr. Coleman stated that they were requesting a modification to the UDO due to the way the fall zone is engineered.

Ms. Zec Nelson inquired about the distance of the fall radius and if it would affect the neighborhood if it fell. Mr. Coleman stated the fall radius of the tower was 85' feet due to the way it is engineered to fall in on itself instead of the 300' on its side. Ms. Zec Nelson inquired about the closeness of the fall radius to the neighborhood. Mr. Coleman confirmed it would be within the property line of the neighborhood.

Ms. Zec Nelson inquired if the airport would be affected. Mr. Coleman stated the FAA had no concerns about the tower and that they had received a letter stating that there were no concerns.

Ms. Nelson inquired if the tower would give them 5 more substations and how many people would be reached with them. Mr. Coleman stated 10,000 or 50,000 more people would be served.

Mr. Coleman stated that these towers help with targeting the areas that have outages and will create better response times to fix those outages.

Mr. Parker inquired if the tower was for human communication or electronic. Mr. Coleman responded electronic.

Mr. David Former, Duke Energy, stated that there would be a radio system that Duke Energy dispatchers will use.

Mr. Parker inquired how the current dispatching works. Mr. Former stated that the tower and substations in Glen Raven are servicing the current needs and they have no land there to build on.

Ms. Zec Nelson inquired if there was any other location where they could build the tower. Mr. Former responded that they had looked for another location and were unable to find any in their target area to reach the stations needed.

Ms. Zec Nelson inquired that if Duke owned the land there, do the people who live in the area also own their homes. Mr. Coleman clarified that Duke only owned the property indicated on the map in blue and individual homeowners own the property around it.

Mr. Coleman stated that they did do an impact study of the area and that there was going to be no evaluation impact on the surrounding properties because of the tower. Mr. Coleman also stated that they did not bring the appraiser with them to the meeting.

Mr. Kirkpatrick inquired if the benefit of the tower location was to reach five more substations. Mr. Coleman stated that the benefit of the tower was for the public. Mr. Kirkpatrick inquired on how it would benefit the public and if the tower was to let Duke know about potential outages, problems, which would in turn make the benefit to Duke and the public to be five additional substations. Mr. Coleman affirmed and responded that the additional substations benefit was due to the additional height.

Mr. Kirkpatrick inquired if the tower was only 200' could it be built there without the property being rezoned. Ms. Lawson responded that they would have to have the property rezoned no matter the height of the tower but that the applicant is requested additional height be approved.

Mr. Kirkpatrick inquired about how many people were affected by the five additional substations. Mr. Former responded that to get an exact number they would have to look at distribution maps. Mr. Kirkpatrick requested a ballpark figure of affected people. Mr. Former responded that the distribution of the substations would be able to reach around 30-50, 000 people.

Mr. Beasley inquired if 30-50,000 referenced current customers and if there would be no changes to the substation except for communications with the tower itself. Mr. Coleman affirmed.

Mr. Beasley stated that the benefit was entirely for Duke Energy and stated that is his experience that never translates to the customer. Mr. Coleman responded that Mr. Beasley could be speaking about his own experiences with Duke customer service which could be addressed outside the meeting. Mr. Coleman also stated that public benefit for having the tower installed with the height is that outdated relay systems would be updated and that the tower is in a central location of Alamance County to allow for this improved relay system which would help Duke better respond to outages and emergencies.

Mr. Kirkpatrick inquired how the relay system worked currently. Mr. Former stated the current tower in Glen Raven is what currently is responsible for the emergency systems. Mr. Former stated that the tower is 200' tall, in a substation and is 60 years old and they need to replace it which is what caused them to

begin to look for land starting 5 years ago. Mr. Former stated they landed on this property because Duke owned it, and it is in a central location.

Mr. Kirkpatrick inquired if it would replace the Glen Raven tower. Mr. Former affirmed and stated that they would take the Glen Raven tower down.

Mr. Kirkpatrick inquired if they could switch the existing tower out instead of having to build a new one. Mr. Former stated no due to not having any space at the Glen Raven location. Mr. Former stated they searched for land but couldn't find any that was suitable.

Mr. Roane inquired about how many substations the Glen Raven tower covered. Mr. Former stated he was unsure. Mr. Roane inquired if the height of the tower was around 150'. Mr. Former stated that tower was below 200' in height.

Mr. Black inquired if the tower would be heated for ice prevention. Mr. Former responded no that the tower would withstand 119 MPH wind and 30 MPH winds with an inch of ice on the tower.

Mr. Black inquired about interference from the tower and if it was a WIFI tower due to the height. Mr. Former responded that the tower was in the unlicensed 5.8 gigahertz spectrum. Mr. Black inquired if they anticipated the tower interfering with anything. Mr. Former stated no and that the tower operated in compliance with the FCC regulations.

Mr. Black inquired with the growth of the five substations if more could be added or if the five substations would max the tower out. Mr. Former stated the max was based on the coverage of the tower. Mr. Black stated that currently the Glen Raven tower was reaching 25 substations and that the addition of 5 more substations would make a total of 30, if at that point the tower was maxed out or if more could be added. Mr. Former affirmed that if the area needed more substations and the tower could reach them then more could be added.

Mr. Black inquired if the tower was going to be rented out. Mr. Former stated that they did not have plans to rent out the tower but that there was capacity to do so. Mr. Black inquired if this tower would not be for just Duke Power, it could also be other companies on the tower. Mr. Former responded it could be but that was not the purpose of the tower. Mr. Black stated that the idea was that they could lease out parts of the tower. Mr. Former responded that they could do tower loading. Mr. Black inquired if they rented out the Glen Raven tower. Mr. Former responded that they did not.

Mr. Beasley inquired if this rezoning was not approved, what their backup plan was. Mr. Former stated that Burlington has a network of five towers and that Burlington has a spectrum of coverage that Duke does not have. Mr. Former stated that the spectrum they use in Burlington could be used in another area and that they can't add individual cells to the spectrum which causes limitations. Mr. Former stated they don't know what they would do if this were not approved.

Mr. Coleman stated that Duke had been in the rezoning process for a year working on making this project work based on the requirements of the ordinance. Mr. Coleman stated that in the packet the commissioners could see that City Staff had given a recommendation to approve this project and that they had expected feedback from the commission to create a tower that meets requirements and Dukes needs.

Ms. Zec Nelson inquired if they knew how many inhabitants were in the neighborhood. Mr. Coleman stated that he didn't know and gave information about a few of the properties and who they were owned by and showed the neighborhood but was unsure of the number of inhabitants.

Mr. Kirkpatrick stated that with the tower being 314' that the neighborhood would definitely be able to see it. Mr. Coleman stated that it would certainly be more visible to the neighboring residents and area. Mr. Coleman also stated that there could be one tower at 300' or multiple towers at different heights in different areas.

Mr. Beasley inquired about the modelling of the fall study and what tools were used to calculate the results. Mr. Former responded that Duke used the modeling that Saber, the tower manufacturer, gave them and that they believed they could rely on the manufacturer's stamp and integrity.

Mr. Roane inquired about lighting on the top of the tower and what it would look like in the daytime versus the nighttime. Mr. Former stated that he believes the FAA tells them what they have to have on the top of the tower and that it's designed so planes can see it.

PUBLIC COMMENT:

Ms. Anne Jones, speaking for Diane McKinney, 1102 Holly St. Ms. Jones stated that they grew up in area and family has owned it since 1969. Ms. Jones stated Duke has thrown their weight around before. Ms. Jones stated that the main road was installed in the area and then the road was closed. Ms. Jones stated that Duke purchased other energy sources for their own benefit. Ms. Jones stated that people in the area have died from cancer or currently have cancer. Ms. Jones stated that the tower will interrupt sleeplessness, memory loss, cause cancer, and will cause the neighborhood to lose value. Ms. Jones stated about a neighbor who tried to keep her yard in good appearance and that there were areas because of Western Electric that had never been cleaned up and contaminations from it went into the Haw River which is a major source of water for people in the area. Ms. Jones stated that she didn't believe the tower should be there and requested the commission to think of the neighborhood.

Mr. Nicholas Allen, spoke on behalf of Ms. Ruth Joy Watts, 1028 Rainey St. Mr. Allen read the letter which stated that she was not in favor of the project due to the potential for property value to go down and various health concerns. Ms. Watts inquired if the commissioners would want the tower in their neighborhoods and requested a new location be chosen for the tower.

Mr. Nicholas Allen, 1033 Rainey St, stated that for himself he was opposed to the increased zoning. Mr. Allen stated that he was unhappy that his property faces the lot, but he was not notified through Duke Energy or the City. Mr. Allen stated he was concerned with the tower being built due to having Lyme Disease and the increasing traffic. Mr. Allen stated that studies have shown that people who are immunocompromised are exposed to EMF Radiation have a poor outcomes. Mr. Allen stated that if Duke was unaware of the dangers he mentioned, it was due to them ignoring it. Mr. Allen requested the commission to not allow the tower to be built.

Mr. Parker requested Mr. Allen to indicate on the map where his property was. Mr. Allen indicated on the map, and stated he was never notified about Dukes Public Forum or the meeting tonight. Staff looked at the list and it was right outside the notification buffer.

Ms. Shannon Alveranga, 1029 Washington St, inquired about the contaminated soil and if Duke had looked into how much it would be to fix the contamination and place the tower further back. Ms. Alveranga stated that further back closer to the contamination there are not a lot of residential areas. Ms. Alveranga inquired if Duke had done a study about fixing the contamination and had discovered that the cost would be high to fix it and put the tower further back. Ms. Alveranga inquired for the evaluation that it would not decrease the values; did they work with an independent contractor or someone they paid. Ms. Alveranga stated that she had spoken with a realtor who stated that the tower would decrease property values. Ms. Alveranga also inquired if a tower built similarly had ever completely fallen over.

Mr. Black stated that he wanted to hear Duke's response to the questions asked.

Mr. Coleman stated that Duke did a study unrelated to the tower about the contaminated soil that was at the state level. Mr. Coleman stated that Duke did not do a study of what is needed to be done to fix the contaminated soil. Mr. Coleman stated that the reason for this is that there is an established plan in place to fix and retain the soil.

Mr. Parker inquired about the appraisal that was done of property values. Mr. Coleman stated the appraisal was done by a licensed appraiser who was retained by Duke. Mr. Coleman stated that the appraiser used standard NAI Methodology and details of the appraisal can be found in the packet.

Mr. Coleman stated that he does not know if a tower has fallen over that had a fall radius less than its total height.

Mr. Kirkpatrick requested Mr. Coleman to show him on the screen the contaminated soil. Mr. Coleman indicated on the screen what areas of the property have contaminated soil.

Mr. Kirkpatrick inquired what the radius of the health concerns are in proximity to the tower. Mr. Coleman stated that he was not an expert but that electromagnetic fields carry a lot of fear and that studies show that household appliances carry the same amount of electromagnetic fields. Mr. Coleman also stated that studies show that the electromagnetic field dissipates the further you get from it.

Mr. Kirkpatrick inquired if Duke had addressed the handling of the contaminated soil. Mr. Coleman stated that they had done a study with the approval of DEQ and that the study determined that there is no contamination moving off the site. Mr. Kirkpatrick stated that contaminated soil could be reclaimed successfully and that he wanted to know if Duke had looked into fixing the soil. Mr. Coleman stated no they had not.

Mr. Beasley stated that the company used, Palmer, is a 3rd party company and in their report, they stated that the detailed soil study was not conducted onsite. Mr. Beasley stated that he had an issue that the report did not include a study from Duke Energy about the suitability of the contamination of the soil. Mr. Coleman responded that the appraisal was based on the proposed parcel and that there was no potential contamination of the proposed parcel. Mr. Beasley stated that the report included the proposed parcel and not the potentially contaminated parcel. Mr. Coleman stated that the study looked at putting the tower on the subject property, but it did not look at potentially putting it elsewhere.

Mr. Beasley inquired why the report did not cover the subject property. Mr. Coleman responded that they didn't include anywhere they were not going to break ground. Mr. Beasley stated that the report did not

cover the property that Duke wants to break ground on and stated he did not understand why a study was not done to cover the subject property and assure the surrounding community.

Mr. Coleman inquired if Mr. Beasley was inquiring about Dukes Analysis or the appraisal. Mr. Beasley responded it was about Dukes Analysis not covering the subject property. Mr. Coleman stated that Duke Analysis covers the whole property and gave a brief history of the property since 1929 about the plumes of contamination detected and that the register of deeds did not indicate that the subject property was potentially contaminated. Mr. Coleman stated that he had thought Mr. Beasley was asking about the appraiser's report not Dukes Analysis.

Mr. Beasley stated that the addendum from the appraiser made him want to know if Duke had done a soil study on the subject property and not just the adjacent property. Mr. Coleman stated that the primary focus was the historic site and where the plumes were located.

Ms. Diane McKinney, 1102 Holly St, inquired why Duke Power couldn't find somewhere to build the tower where there are no residential homes. Ms. McKinney stated that she had come to a meeting before when they were closing Holly St. Ms. McKinney inquired if the apartments were owned by Duke. Mr. Parker responded that they were not. Ms. McKinney stated that she didn't want the tower to be built there.

Mr. Boney inquired if his understanding was that Duke was not going to do any commercial renting of the tower for other uses. Mr. Black responded that the understanding from Duke was that there were no plans to rent out the tower for commercial uses. Mr. Boney inquired if he understood from the question that separate approval would be needed to lease the tower for commercial uses. Ms. Lawson stated that on page 67 in the packet number 4 and from that definition even though they aren't planning to rent the tower, they would not have to come back for more approvals if they did decide to rent it. Mr. Black stated that it was his understanding that you have to offer the ability to offer rentals on the tower but was simply wondering if they already had someone signed up for leasing. Mr. Parker stated that it was allowed. Mr. Boney inquired if it was allowed even without consideration. Mr. Parker affirmed.

Mr. Byron White, 2701, Delaney St, inquired when the Duke meeting was held and where was it held.

Mr. Former stated it was held in October of 2021 and one person was in attendance. Mr. Nicholas Allen inquired who was notified of the meeting. Mr. Former stated that postcards were sent to a list of homeowners. Mr. Former stated that the postcards had a depiction of the tower to give the neighbors a chance to see what it would look like. Ms. Zec Nelson inquired if it was an in-person meeting. Ms. Former stated yes it was and was at the Duke Ops center. Ms. Zec Nelson inquired if, due to COVID, they had offered it online. Mr. Former stated he was unsure of how it was communicated.

Ms. Zec Nelson inquired if they had been working on it since 2021 and they had only had a meeting in 2021 when the meeting for approval is in 2023 and why there was such a gap. Mr. Former stated that she would have to ask Planning. Mr. Parker stated that the request was from 2021 and had been working on the plan since then to be able to come before the Planning and Zoning Commission. Ms. Zec Nelson stated that it seemed like the public who showed up today had not been notified in 2021 of the meeting.

Mr. Black stated that he was picking up on, and hoped Duke Power was picking up on, the displeasure from the community and that there seems to be a lack of community involvement from Duke. Mr. Black also stated that if there had been more customer services with the people in the neighborhood, they may

not have been met with so much displeasure. Mr. Black also stated that he hoped they would take it back to their team.

Mr. Roane inquired about substation attacks and if there would there be video monitoring of the substations that is dependent on the Wi-Fi system. Mr. Former stated they have to bandwidth to be able to have video monitoring, but it would not be dependent on the tower.

STAFF RECCOMENDATION:

Ms. Lawson stated that the proposed rezoning of the Conditional Industrial (CI) zone district is consistent with the Land Use Plan, which calls for this area to be Business Park/Light Industrial. Staff recommends approval of the rezoning request based on the Land Use Plan, per Option 1, as provided in the Consistency Statements Sheet.

Mr. Parker stated however the vote turns out, he recommended to Duke power to hold another Neighborhood Meeting with broader outreach before going further.

MOTION:

Mr. Kirkpatrick made a motion a motion to recommend denial of the request to rezone property from Light Industrial (LI) to Conditional Industrial (CI). The property is located on the east side of Holly St. north of the intersection of Holly St. and Maryland Ave. addressed as 0 Holly St. and consisting of Alamance County Tax Identification Number 138264.

While the request is consistent with the Future Land Use Map, Section 4 “Land Use” of the Comprehensive Plan, in that it calls for this area to have Business Park/Light Industrial uses:

- The requested zoning is not necessary for this location.

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

- The requested rezoning is incompatible with existing land uses in the area.
- The current zoning is preferable for the area.

Mr. Beasley seconded the motion.

VOTE (5-1):

Approved by (Parker, Kirkpatrick, Beasley, Roane, and Zec Nelson)

Opposed by (Black)

The motion was approved to deny the request.

ITEM NO. 5:

UDOTA 1-23: Mr. Chad Meadows, on behalf of the City of Burlington, to present Unified Development Ordinance Text Amendments.

Mr. Chad Meadows, CodeWright Planners, detailed the different amendments that were updated. Mr. Meadows stated that there were 31 total areas of revision and that those areas of revision had been organized into 6 groups: Procedural, Use-Related, Dimensional Standards, Development Standards, Definitions, and Nonconformities in the UDOTA 1-23. Full details of the UDOTA 1-23 Text Amendment Updates can be found in the Power Point provided at the meeting.

Mr. Beasley inquired about the application abandonment procedure (120+30) (p.2-15). Mr. Beasley inquired what the applicant process would need to be to notify the city that they want to continue the application. Mr. Meadows stated it would depend on the application and what information may be needed to complete the application. Mr. Meadows stated that like any decision with the UDO, if an application is deemed abandoned, the applicant can decide to have the decision appealed with the Board of Adjustment.

Mr. Parker inquired about removed TIA requirement for applications where uses are not known (e.g., straight rezoning) (p. 2-72). Mr. Parker stated that when applicants come and want to build apartments but don't conduct a traffic study because they don't have to, how many trips should be calculated for the apartments. Mr. Meadows responded that he was unsure, and it would depend on the type of project. Mr. Parker stated that when they receive a proposal that discusses traffic study, the transportation director will need to be present to answer questions. Mr. Meadows responded possibly, if a TIA is required for the application the applicant will have to have prepared and submitted the TIA with the application, but if it is not included with the application, it would be safe to assume it was not required or they didn't know what the uses were going to be.

Mr. Parker inquired if this update would make the TIA more of a requirement. Mr. Meadows responded that they did not remove the minimum requirements but what they did do was they took out a standard in the UDO they could not legally require.

Mr. Black stated that if a rezoning request would generate more than 100 trips a TIA will be required. Mr. Meadows affirmed.

Mr. Olmedo stated that the Transportation Department said if a rezoning is a Limited Use or Conventional Use request, they may not know what exact use the applicant will want to choose. Mr. Black stated applicants won't volunteer how many units they want build but once they do staff will know to request the traffic study. Mr. Olmedo stated that will also come into play at a Technical Review Committee Meeting. Mr. Olmedo stated that this change will help to fine tune the rezoning process.

Ms. Lawson stated that if someone is applying for Limited Use Rezoning, and they decide to have apartments, they can't commit to the number of units anyway. Mr. Black stated that applicants in a Limited Use Rezoning have the flexibility of land uses without having to commit to a specific project that may or may not trigger a TIA. Ms. Lawson stated that is where Planned Developments have more information in them because they know what the project will entail.

Mr. Black inquired about Automotive towing & storage lot changes – increased to 100 cars, remove max. size, add screening (pp. 4-42, 43). Mr. Black asked what the reasoning for raising the number of vehicles allowed on the property. Mr. Meadows stated that he would answer it after the use table discussion.

Mr. Meadow detailed the different changes to the Principal Use Table. *Full details of the UDOTA 1-23 Text Amendment Updates can be found in the Power Point provided at the meeting.*

Mr. Beasley inquired about the Principal-Use change for religious institutions. Mr. Beasley inquired if any religious get-together, such as a small group, would have to be permitted. Mr. Meadows stated that he did not believe that a small group would be defined as a religious institution. Mr. Beasley responded that he asked about it because there are municipalities that are requesting permits for any religious get

together. Mr. Meadows stated that the alternative was to make the uses permitted in residential districts which could allow for schools to be in residential districts.

Mr. Parker stated that Burlington currently has schools in residential districts with Hillcrest being right on Davis St. Mr. Meadows responded yes they do, and that federal law occasionally creates trouble for local governments. Mr. Parker inquired if a new school wanted to build in a residential district could they. Mr. Meadows responded that they could, but they would need a Special Use Permit to do so.

Mr. Olmedo read out the religious institution definition from page 574 in the UDO.

Mr. Parker inquired about the use tables in the back of the packet and was confused as to why it said that they were permitted. Mr. Meadows clarified that it was the old use table that Mr. Parker was looking at to show the changes that were being suggested.

Mr. Beasley inquired why they were removing external access Self-Storage from General Business (GB). Mr. Meadows stated that during discussions it was decided that it was a use type that is more industrial in nature and felt that bringing it into the conditional process would help address negative aspects of the use type without completely excluding it. Mr. Beasley stated that he inquired about it because there is a rare abundance of buildings that could be used for storage in GB and stated that it is a popular investment opportunity. Mr. Meadows responded that it is also a use type that has possible deleterious impacts on adjacent properties and stated that they haven't excluded this use but possibly have made it more difficult to external self-storage in a commercial zoning.

Ms. Lawson stated that staff is seeing applications that are both external and internal self-storage and that applicants could have the external as long as the internal storage was the main type of storage.

Mr. Roane inquired about the definition of external storage as there is a gate and you can drive up to the unit and internal was where you went into a building to access the unit. Ms. Lawson stated that the definition was correct.

Mr. Parker inquired about Automotive towing & storage lot changes – increased to 100 cars, remove max. size, add screening (pp. 4-42, 43) and if the lot has to be screened so that no one can see it. Mr. Meadows affirmed. Mr. Parker inquired about the heights being different at different levels of elevation and if it was visible from a different height would that matter. Mr. Meadows responded that the development regulations are created as if everything is flat, and it would be practically impossible to do otherwise.

Mr. Beasley inquired about the number of vehicles allowed and why there was an increase. Mr. Beasley also stated that it could be easier for owners who own a towing business but are actually selling parts from vehicles to cycle out their inventory fast enough for someone to not notice how many vehicles they have. Mr. Meadows responded that there is difficulty in enforcing some of the standards on the agenda for that day and that it is simpler to “hide” it than to enforce how long vehicles have been on a property.

Mr. Black stated that it would be easier to count 50 vehicles instead of 100 vehicles and that reducing the number instead of increasing the number would be more helpful. Mr. Meadows stated that the number of vehicles was a proxy for intensity or size and that it was as close as they could come with a crude tool such as an aerial photo. Mr. Black stated that he was comfortable with 50 so he was unsure why they wanted to increase it and that you couldn't block the sight of the lots enough for his comfort.

Mr. Parker inquired if a current facility would have to upgrade their current fencing to make it to where there was a screen to keep people from seeing in. Mr. Meadows affirmed that existing businesses would not have to do that unless they propose additional development.

Mr. Beasley inquired if they would have to put up the screening if the site plan changed. Mr. Meadows stated only if the use changes.

Mr. Parker inquired about if there was a rule about if someone had a broken-down car in a residential area and they stored it on the property. Mr. Meadows stated that they would look at the accessory use standards on pages 4-62 or 63 of the UDO. Mr. Meadows stated that if a vehicle is being stored in a residential area, it has to be on the side or rear of the property, and he is unsure if it has to be screened. Mr. Olmedo stated that it was a Code Enforcement issue, and the code officers have a process to deem if a vehicle is a junked vehicle. Mr. Parker stated they see this issue a lot.

Mr. Black inquired about the parking of heavy trucks and trailers and recreational vehicles and inquired about the definition of heavy truck being 10,00 pounds and why they chose that definition. Mr. Meadows responded that they chose that definition because current trucks weigh more. Mr. Black stated that he felt that he could bring his freight liner into his yard because it's a truck/tractor but it's not a heavy truck by definition. Mr. Meadows inquired if it had two or three axles. Mr. Black stated that it had three and that he was referring to a big rig and that by definition it was a truck/ tractor because it pulls a semi-trailer. Mr. Black stated that he wanted to make sure to clarify the definition so that applicants do not get confused.

Mr. Parker inquired about the clarification on the max allowable density and maximum number of lots. Mr. Parker inquired about if someone had looked at the max number of lots and if that number was different than the max allowable density so there may be confusion on how many lots they could have. Mr. Meadows explained how to calculate the max allowable density and maximum number of lots and stated that even if you calculate how many lots you get, if the max allowable density is lower then that is what the applicant would have to go with. Mr. Parker inquired about if an applicant had calculated that they could get 36 units but then staff came back and told them they only got eight. Mr. Meadows responded that there was uncertainty from applicants miscalculating how many units they can but only being allowed to have a smaller number of units based on the size of the property.

Mr. Beasley inquired in regard to gravel is not a permitted ground cover with streetscape or perimeter landscaping buffers (pp. 5-33, 5-46) if that means that applicants would be allowed to use it for specific drainage. Mr. Meadows responded yes, and they would be able to use it for a parking lot.

Mr. Roane inquired about bigger rocks being used. Mr. Meadows responded that it was still gravel by technicality and that they did not determine a minimum rock size.

Mr. Black inquired in regard to allowing up to 6 sf of window signage to be illuminated (p. 5-116), what prompted the change. Mr. Meadows stated that it came from pressure from local businesses/schools/religious institutions to be able to allow electronic message boards.

Mr. Black inquired what size this would allow. Mr. Meadows stated that it could be up to 32sq ft in size.

PHONE CALLS:

There were no phone calls about this item.

STAFF RECOMMENDATION:

Ms. Lawson stated that the proposed text amendment is necessary at this time and staff recommends approval of the Unified Development Ordinance Text Amendments (UDOTA 1-23) based on the Land Use Plan, per Option 1, as provided in the Consistency Statements Sheet.

MOTION:

Mr. Kirkpatrick made a motion to recommend approval of the request to amend the City of Burlington Unified Development Ordinance with the proposed text amendment.

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

- Section 4, Land Use, Goal 1, Recommendation 5, of the Comprehensive Plan, calls for an update of the Unified Development Ordinance.
- Section 4, Land Use, Goal 1, Recommendation 5, of the Comprehensive Plan, calls for ensuring sound land planning decisions that are consistent with the vision of the Plan.

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

- Section 4, Land Use, Goal 2, Recommendation 4, of the Comprehensive Plan, addresses confusion, conflicts, and obsolescence of the Zoning Code through a new Unified Development Ordinance.
- Section 4, Land Use, Goal 2, Recommendation 4, of the Comprehensive Plan, a new UDO will be modern, graphically intensive, and user-friendly from both a public/petitioner and administrative perspective.

Mr. Roane seconded the motion.

VOTE (6-0):

Approved by (Parker, Kirkpatrick, Beasley, Black, Roane, and Zec Nelson)

NEW BUSINESS:

No new business.

ADJOURNMENT

Mr. Black made a motion to adjourn the meeting. Mr. Roane seconded the motion.

All were in favor.

Meeting was adjourned at 9:45 p.m.