

**GUILFORD COUNTY
PLANNING AND DEVELOPMENT
PLANNING BOARD MEETING MINUTES**
NC Cooperative Extension – Agricultural Center
3309 Burlington Road, Greensboro NC 27405

March 13, 2024, 6:00 PM

Call to Order

Chair Donnelly called the meeting to order at 6:00 p.m.

A. Roll Call

The following members were in attendance in person for this meeting:

James Donnelly, Chair; Ryan Alston; Sam Stalder; Dr. Nho Bui; David Craft; Cara Buchanan; and Rev. Gregory Drumwright

The following members were absent from this meeting:

Guy Gullick, Vice-Chair; and Jason Little

The following Guilford County staff members were in attendance in-person for this meeting:

J. Leslie Bell, Planning and Development Director; Oliver Bass, Senior Planner; Brianna Christian, Planning Technician; Robert Carmon, Fire Inspections Chief; and Matthew Mason, Chief Deputy County Attorney

B. Agenda Amendments

Leslie Bell stated that there were no amendments to tonight's agenda.

C. Approval of Minutes: January 10, 2024

Chair Donnelly pointed out a minor typo on Page 9 of the minutes.

Mr. Alston moved to approve the minutes of the January 10, 2024 Planning Board Regular Meeting, as corrected, seconded by Mr. Craft. The Board voted unanimously (7-0) in favor of the motion. (Ayes: Donnelly, Craft, Bui, Buchanan, Stalder, Drumwright, Alston. Nays: none.)

D. Rules and Procedures

Chair Donnelly provided information to everyone present regarding the Rules and Procedures followed by the Guilford County Planning Board.

Chair Donnelly stated that the Chief Deputy County Attorney, Matthew Mason, is with the Board this evening and is going to share a statement about rezoning case(s) scheduled for the Board's consideration this evening.

Attorney Matthew Mason stated that he will share a brief statement that his boss gets credit for. She shared this with the Board of Commissioners before their last zoning decision. Attorney Mason stated that tonight the Board is going to hear a rezoning application, and he wanted to remind everyone that when the Planning Board considers rezoning applications, its determinations are based on the land uses that are allowed under the zoning district proposed in the application. It is important to know that the Planning Board is not here to determine all the details of a development. That involves staff input and evaluation that goes beyond the scope of the Planning Board's work. Many site-specific development features such as management of storm water, to name one, are evaluated through the Technical Review Committee (TRC), rather than through the Planning Board meeting. Lastly, concerns that are not related to land use are not relevant to the Board's consideration of rezoning applications. For example, generalized concerns about crime rates, economic impact to surrounding businesses, and questions of who might own or occupy a subject property are not for the Planning Board's consideration. If there are questions about matters that are not addressed here this evening, those can be referred to the Planning Department or the TRC, as appropriate.

Chair Donnelly thanked Attorney Mason for this information and stated that the Board members would have an opportunity to discuss this in more detail later in the meeting. Staff have shared some information received from the UNC School of Government and that information was included in the Board members' packages.

E. Continuance Requests

Leslie Bell stated that there were no requests for continuance.

D. Old Business

None

E. New Business**Non-Legislative Hearing Item(s)**

None

Legislative Hearing Item(s)**REZONING CASE #24-01-PLBD-00072: AG, AGRICULTURAL TO RS-40, RESIDENTIAL: 7603 ROYSTER ROAD (CONTINUED TO APRIL MEETING)**

Oliver Bass stated that this property is located at 7603 Royster Road (Guilford County Tax Parcel #138436 in Center Grove Township) approximately 2,208 feet southeast of NC Highway 150 W and comprises approximately 14.26 acres.

This is a request to rezone the property from AG, Agricultural to RS-40, Residential. The proposed rezoning is consistent with the Northern Lakes Area Plan recommendation of AG, Rural Residential; therefore, if the request is approved, no plan amendment will be required. There is no history of denied cases.

Under a conventional rezoning, the Planning Board must consider all uses permitted in the RS-40 district as listed in Table 4-3-1, Permitted Use Schedule in the Guilford County Unified Development Ordinance. Uses allowed under the proposed zoning include single-family detached dwellings, major residential subdivisions (6 or more lots), and certain recreation, institutional, and utility uses. The AG District is intended to provide locations for agricultural operations, farm residences, and farm tenant housing on large tracts of land. This district is further intended to reduce conflicts between residential and agricultural uses and preserve the viability of agricultural operations. Commercial agricultural product sales - "agritourism" - may be permitted. The minimum lot size of this district is 40,000 square feet. The RS-40 District is primarily intended to accommodate single-family residential detached dwellings on lots in areas without access to public water and sewer services. Conservation subdivisions may be developed in this district.

This request is in an area of mostly low-density residential parcels and agricultural uses. Several single-family residential subdivisions have developed nearby under the RS-40 zoning standards. The existing lot is mostly undeveloped land or agricultural use.

Surrounding Uses:

North: Single-family residential

South: Low-density single-family residential

East: Three undeveloped lots subdivided out of the parent tract of the subject parcel in March of 2022

West: Single-family residential subdivision (zoned RS-40).

There are no inventoried historic resources located on or adjacent to the subject property.

There are no cemeteries shown to be located on or adjacent to the subject property, but efforts should be made to rule out potential grave sites. The Fire Protection District

is Summerfield FPSD, approximately 2.0 miles. Water and Sewer Services are private septic systems and wells.

Royster Road is a collector street under the 2005 Greensboro MPO Collector Street Plan NCDOT Average Annual Daily Traffic Count is not available near the subject parcel. The property is gently sloping and moderately sloping. There is no regulated floodplain existing on the site per the Effective FIRM. No mapped wetlands exist on site per the National Wetlands Inventory. Mapped streams are on site per USGS and/or Soil Survey Map of Guilford County. The property is in the Greensboro WS-III General Watershed.

The property is located within the Northern Lakes Area Plan (Updated in 2016) and the Plan Recommendation is AG, Rural Residential. The requested zoning is consistent with the recommendation of the Northern Lakes Area Plan. The AG, Rural Residential (AGRR), is intended to accommodate agricultural (AG) uses, large-lot residential development, and low-density residential subdivisions not connected to public water and sewer with densities not to exceed two (2) dwelling units per acre. Anticipated land uses include those permitted in the RS-40 Residential Single-Family zoning districts including, but not limited to, institutional and recreational uses.

Staff recommends that the requested action is reasonable and in the public interest because it is consistent with the recommendation of the Northern Lakes Area Plan. It would extend housing opportunities to future residents at densities supported under the AG, Rural Residential land use designation. The development patterns in the vicinity are consistent with standards applicable to the RS-40 zoning designation.

The requested action is within the policy framework established in the adopted Comprehensive Plan as follows:

- 1. Goal #1**, Objective 1.1, Policy 1.1.1 of the Future Land Use Element states that "Planning staff will continue to utilize the future land uses depicted on citizen-based Area Plans, in conjunction with the rezoning guidance matrix, as the basis for land use and policy recommendations." The rezoning matrix for the AGRR designation lists RS-40 as a compatible zoning district.
- 2. Goal #1** of the Housing Element states "Provide current and future residents of Guilford County with a variety of housing options and opportunities." The RS-40 district allows single-family residential development at low densities as supported under the AGRR designation.

The proposed rezoning is consistent with the Northern Lakes Area Plan recommendation of AG, Rural Residential; therefore, if the request is approved, no plan amendment will be required.

Chair Donnelly asked if there were any questions from the Board members for staff, and no questions were posed at this time. Chair Donnelly pointed out that the three

(3) lots that were shown as being undeveloped in 2022 now each have houses on them, as reflected in the photos.

Chair Donnelly asked if there was anyone wishing to speak on this matter.

Helen Williams stated that she lives next door to this property, and she does not have any issues with the rezoning request, but she just wanted to come and see the process. She asked if the RS-40 zoning could be changed at some point to be a higher density by the person that owns the subject property? Chair Donnelly stated that any rezoning request like that would come back before the Board and would have to go through the same review process. An individual property owner has the ability to apply for a designation that they think is appropriate. As Mr. Bass described, there is a long-range plan in place that provides some guidance; there are some areas not far from this location that are already zoned as RS-30, so it would not be out of the question if someone chose to do that. Ms. Williams stated that she is the only person that lives on her road, and it is a private road. How many dwellings can be developed before it has to have a County road installed? Mr. Bass responded that every lot has to have access to a public road or frontage on a public road. If there is an existing road that qualifies to have direct frontage, then they would not have to construct a road. There is no real maximum; it just depends on the design or shape of the lot and traffic on the street. If Royster Road was a thoroughfare, they would have to install a street before they could create new lots. Ms. Williams pointed out that there is not currently a road that accesses the area that they want to rezone. Mr. Bass stated that it depends on how the owner wants to develop the site.

Chair Donnelly stated that the anticipation would be that if they were to develop this as a residential lot, they would use that strip of land that connects to Royster Road and put a street in, and then they would have lots that use that street as access. Ms. Williams' question was how many houses would have to be built before the road would be something other than just a gravel road. Mr. Bass responded that if it is a minor subdivision up to five (5) lots the road can be gravel, and more than five (5) lots would require a paved road.

Chair Donnelly asked if there was anyone else wishing to speak on this matter, and no one came forward. The legislative hearing was closed by unanimous consent.

Discussion:

Ms. Buchanan asked that the topography map be shown on the overhead. She commented on the number of houses brought up by the speaker, and she pointed out that there are just a few houses on these lots because of the topography. Unless it was zoned for something smaller, like townhomes, which probably happens in that area, there would probably only be four (4) or five (5) houses based on the size of the lot.

Mr. Craft asked if they could do a private drive to service four (4) to six (6) houses or would it have to be a public street. Mr. Bass responded that a road could be public or private, But if it is five (5) or less, they wouldn't have to pave it; it could be gravel.

Rev. Drumwright asked what is the process of making it a private road. Mr. Bass stated that they would have to have it designed by an engineer to NCDOT standards. They (the engineer) would have to certify that it is designed and built to NCDOT standards, then it would be recorded with a maintenance agreement by HOA or owners who would sign it, and it would be recorded. Rev. Drumwright asked if that would be at the owner's expense. Mr. Bass responded that was correct. If it is dedicated as a public road, it has to be approved by NCDOT. Once the road is built, NCDOT would inspect it, certify that it is built to their standards, and there would have to be four (4) homes there before it can be taken over for maintenance by the State. The developer is responsible for the building of the road, and once it is built, the developer would petition NCDOT to take it over for maintenance. In the meantime, it would have to be maintained by the property owners.

Chair Donnelly thanked Mr. Bass for that clarification. He stated that he wondered if there was an opportunity for a cluster development. The regulations for a cluster development requires that there is public sanitary sewer. Since it is on a septic system, the cluster development that is permitted under R-40 would not be an option on this property.

Chair Donnelly stated that he would be happy to entertain a motion.

Mr. Craft stated that he would make the motion, reluctantly, because the applicant is not at the meeting to answer questions and there were questions by the members. He feels that is a little disappointing. Chair Donnelly stated that the Board has the opportunity to say if the Board is not comfortable with the applicant not being in attendance to answer questions. The Board can certainly continue this request to a future meeting. Mr. Craft pointed out that the plat provided is not really relevant to the rezoning. It shows the other three (3) lots but doesn't really provide any information for this particular parcel. He wants to make sure the minutes reflect that.

Chair Donnelly stated that this is a general RS-40 zoning classification, so they really can't look at that. Mr. Craft stated that he is just pointing out that the plat that was provided does not really provide any information relevant to this rezoning request.

Mr. Bass added that this plat is the one that was recorded earlier. Mr. Craft stated that the plat provided is not what the Board is considering at this time. They are considering something called "Knight Acres," which is behind the property shown on the plat.

Rev. Drumwright asked if it is a requirement that the applicant show up for the meeting? Mr. Bass stated that they do request that the applicant attend the meeting when they are sent the notice. Chair Donnelly asked if staff had met with the applicant,

Mr. Knight, and gone over anything. Mr. Bass responded that they did meet with the applicant and discussed the process.

Mr. Bell added that the application does say that the applicant or their representative should be at the meeting. Mr. Bass added that he does send notice specifically to the applicant letting them know they are required to attend the meeting.

Attorney Mason stated that in looking at the Ordinance, he does not see a requirement for the applicant to attend, so he doesn't think that putting it on the application has the force of law, so to speak. He does think the Board has the option of whether it wants to proceed on the substance of the application without the applicant being here. He added that if it is the Board's will to wait in order to have the applicant present, he would suggest to the Board that the public hearing be reopened, just so it is opened, then continue it so that there are no issues around Notice of the Public hearing when it comes back to the Board.

Chair Donnelly asked that, if the Board were to take a vote to continue it, could they then reopen the hearing afterwards, or would the public hearing on this particular case remain open until it comes back to the Board for consideration? Attorney Mason stated that a way that they can proceed tonight is to vote now to reopen the public hearing; once they have taken that vote, they then deal with a motion to continue the application. If the majority agrees to continue it, then the Board would be all right on the public hearing part. It would not have to be readvertised.

Mr. Stalder stated that he does not have any problem with the land use, but he likes the idea of not setting the precedent that developers don't show up to the meetings and still get their applications approved.

Chair Donnelly stated that he would entertain a motion to reopen the public hearing.

Mr. Stalder moved to reopen the public hearing, seconded by Dr. Bui. The Board voted unanimously by voice vote to re-open the hearing.

Rev. Drumwright moved to continue this matter to the April 10, 2024 Planning Board meeting, seconded by Mr. Craft.

Mr. Alston asked what type of questions will be brought up and what kind of concerns will the Board have once the applicant does come to the meeting. Mr. Craft stated that there is a nearby resident that has questions, and he thinks there should be someone here to answer her questions. Another question is whether it is his intention to develop it with six (6) or more lots which is consistent with RS-40 zoning, because if he wants to develop it with less, then he wouldn't really need to rezone it. He is trying to get into the need for the rezoning.

Chair Donnelly stated that it is his understanding that the property still would need to be rezoned, even if it was five (5) lots. Mr. Bell stated that if it is five (5) because the

same lot size is the same for RS-40 or for AG at 40,000 square feet. It is just that in a minor subdivision, it is five (5) or less; whereas a major subdivision is six (6) or more. He could go in as AG and do five (5) lots. Mr. Craft pointed out that this is a whole new parcel, and those previous three (3) lots are not relevant. What the Board is now looking at doesn't include the three (3) lots, so they are not to consider those lots. Mr. Bell stated that it does because somebody could come in and keep doing minor subdivisions, and then they would exceed the five (5) lots. Mr. Craft said that at this point, to stay as a minor subdivision, he could do two (2) more lots. Mr. Bell stated that was correct.

Rev. Drumwright asked the resident where she lives in relation to the subject property. Ms. Williams stated that she is lot "D" shown on the map. Her address is 1512 Knightway Lane, at the very end.

Chair Donnelly pointed out that one of the questions the Board usually asks the applicant is if they have spoken to other residents in the community. Ms. Williams stated that the applicant had some discussion about the rezoning.

After a short discussion, the Board voted unanimously (7-0) by roll call to continue this matter. (Ayes: Donnelly, Craft, Bui, Buchanan, Stalder, Drumwright, Alston. Nays: None.)

Thereupon, the application was continued to the April 10, 2024 regular meeting with the hearing open, and they do not need to have notice for that meeting, and will communicate to the applicant that without his presence, he cannot expect any affirmative action on the case.

Evidentiary Hearing Item(s)

None

H. Other Business

School of Government Reference Information for Legislative Development Decisions

Leslie Bell stated that as Attorney Mason mentioned earlier, this was something that was provided to the Board of Commissioners when they heard the Spencer-Dixon Highway 150 appeal. In keeping with sharing this same information, the first article from the School of Government deals with **Considerations for Legislative Development Decisions** and is a summary of what the Board went through during your orientation and the mid-year training. It gives a framework or a guide based on Statute as to what considerations are relevant for legislative hearings (e.g., rezonings). This gives you sort of a box that you can work within with those considerations where the Board actually may serve two (2) roles – as Planning Board and Governing Board – and you don't know if you serve both roles until after fifteen

(15) days. So, as a Planning Board, you make a determination whether or not the case you are hearing is consistent with the Comprehensive Plan or any other land use plan. The other article discusses **Impermissible Considerations for Legislative Development Decisions**. Due to special legislation, the Governing Board is required to also issue a statement of reasonableness. Because rezoning decisions currently are delegated to the Planning Board, based on special legislation from the 1980s by the Board of Commissioners (Governing Board), the Planning Board's decision may be final after fifteen (15) days, if not appealed, or if the motion receives at least 75% vote in favor. He asked that those members who are not comfortable with making a motion, what would you request of him, on behalf of staff, that they could do to get you to that place of being comfortable? He asked if another mid-year training would be helpful.

Rev. Drumwright stated that he did not gain a whole lot from the School of Government training. It just wasn't very thorough, and he just didn't benefit from it as much as he had hoped. Mr. Bell asked if it would help if a member asked specific questions as it relates to the matrix and focus on specifics? Rev. Drumwright stated that he hasn't given up on it, and he did ask questions that the moderator/presenter did not have answers for and eventually he just felt he wasn't getting anywhere. There were a lot of people attending in Kernersville, but it was just very dry.

Chair Donnelly asked if his questions were for both legislative action and Special Use Permits, or only one or the other. Rev. Drumwright stated that he thought the School of Government was robust because there were Planning Board folks, and there was also another group present. Mr. Bell stated that he could do another mid-year training, as groups, or they can do one-on-one. They will set a time for the members to come in, and they will run through this again. Rev. Drumwright stated that he thinks what was lacking was the actual practice, so there is a lot of training – “this is what you do – this is what you do,” lots of slides and all that, but in neither session was there any, “Okay, now let's do it.” The application of it would probably be useful. Mr. Bell restated that some practical information would be better.

Ms. Buchanan stated that being put in a situation where you are forced to say, “I move to approve this” does put pressure on a person. Mr. Craft stated that he usually finds the matrix on one case, that is pretty simple, and kind of sketches it out ahead of time and maybe shares it with somebody. The initial training is pretty dry, but until you are in a meeting and see how it works, it's really hard to kind of connect all those dots. It took him about two (2) years to really feel pretty comfortable about making a motion, and when he made his first motion on a Special Use Permit, he drove it into the ditch, but he has recovered since then. Rev. Drumwright stated that was his hope because he has heard several Board members say it took them a while also. He just wanted to give it time, but he probably should have said something earlier to get some practice.

Mr. Craft suggested that staff could plan out the case they will hit next time and do some practice with it. Mr. Alston stated that he does that, and he has done probably two or three motions since he has been on the Board. Actually, he reads it at home and sketches out a possible motion, but when they get in the meeting, somebody might jump in front of him, and he just gives in on it and lets them do it. Sometimes he is unsure of how to word things, and he gets uncomfortable. He likes the one-on-one idea. Ms. Buchanan said that she finds that it helpful to take notes when someone is making a motion on the matrix and then going home and reviewing it. Mr. Donnelly pointed out that staff does a lot of the work ahead of the Board meeting, and a lot of it is already written out. If a member is going along with the staff recommendation, it's especially easy. Mr. Alston pointed out that it is easy to read until you get to the part that says, "because . . . ," and then he doesn't know what all to say. When other things are thrown in, it just sort of makes things confusing.

Mr. Bell stated that the Board members are not bound by staff's recommendation. When they mention the land use plan, they are looking at the same thing, so it is really a transparent process, and the general public also has access to the same information. That information is available online, where it zooms in on that specific parcel, and it will label what that land use designation is for that particular parcel. Board members can do the one-on-ones and we can go through the digital and electronic tools as well. In the packet, everyone is getting the paper copy, but the same information also is on the website.

Mr. Alston asked if it is possible to let the Chairman know that a person wants to make the motion on a particular case because they have already made their notes and feel comfortable making the motion? The Chairman could then call on that person to make the motion. Mr. Bell stated that there are some jurisdictions that those tasks are assigned upfront, and they prepare what they are going to say regarding the motion. So yes, that can certainly be done. He doesn't want anyone to misconstrue what he said about being assigned; he means that the one variable that the Board doesn't have coming into the meeting is the legislative hearing portion, which is as much of the process as any other element of the process. It is not meant that this is the way that a particular Board member has to vote.

Chair Donnelly stated that one of the things that he thinks is important is that they all are comfortable making motions on different cases. There may be aspects of a case that particularly speak to a Board member, and so in the motion where they can capture those effectively, sometimes the person who has those thoughts in their head can articulate that in the motion. This may make it easier, both as the Board reviews it and if it gets appealed. As the County Commissioners review it, the motion concerns are identified."

Mr. Bell stated that just because one of the members says they want to make the motion on a case before the meeting doesn't mean that everybody else has to fall in

line with that. So, don't come in with an already fixed position necessarily on the request. It's about whether that person would be attentive and can see if there is anything else that needs to be added and are they willing to make the motion.

Att. Mason stated that, first to Mr. Alston's question, there would be no problem with him alerting the Chair before the meeting to the fact that he would be willing and able to make a motion on a specific item. That said, the legislative hearing is there for a reason and the whole Board needs to hear what is brought to them for consideration before someone comes up with a fixed conclusion. What then would happen is when the legislative hearing is closed and it's time for a motion, the Chair is the one who recognizes whoever is willing to make the motion for that case. So, whoever gets recognized would have the first opportunity to make a motion, and it could be that the Chairman says a different member wants to make a motion and pave the way. But it is kind of a parliamentary procedure thing, and it's just whichever Board member gets recognized and would be in a position to make the motion.

Chair Donnelly added that on a Special Use Permit, if you have an applicant that has done a really thorough application and they have done a lot of work on it, if you read it, it would be easy to be able to word the motion correctly. There was a case previously where the Board member read information provided because the applicant covered everything. Not every SUP comes to the Board as prepared, which means that the Board members then have to sort through the information to create the proper motion.

Mr. Bell stated that he would contact the members and find out if they wanted to have a small group or one-on-one. Whichever way is fine with him, and then they will set up a time so it will be more individualized. He feels that may be helpful.

In Guilford County right now, it gets a little tough sometimes because they are dealing with a lot of infill development, where there is development around it. Thus, folks that are around that area are accustomed to the way that it is, and the Board is not always asked to make decisions on things on the fringes. The Board will be hearing things like people do not want a "Mom & Pop" to have the competition from a corporate store. Ownership is not anything that the Board should be considering. The Board is only looking at the use because it is not necessarily recognizing specific corporations. The other thing is, sometime in particular with infill development, no one really wants that area to change. So, the Board really needs to be careful with that and when considering something like that, one of the things in looking at the literature is you can't make it based on race, religion, ethnicity, or other protected classifications. If it is because a group of people don't want it in their neighborhood, sometimes it helps if you drill down into the Comprehensive Plan and try to base it on some aspect of the Plan. This is no different than when staff references specific goals and objectives from the Comprehensive Plan in the staff report to support why it is reasonable and in the public interest. The Board may hear something during the legislative hearing that can be added. Mr. Bell reminded the Board that he had given them statutory information

during their orientation and those sections are referenced in the article where it talks about reasonableness and consistency.

Chair Donnelly stated that for a long time, the Board has not had many decisions that ended up going in front of the County Commissioners. More recently there have been some that did go before the Commissioners, and that provided the Board an opportunity for some calibration. He suggested that the Board members watch some of those meetings because it is a great way to understand the nuances of where land use applications are. There was a case about two (2) years ago where there was an infill development, and the Board denied the case because they felt that the density was inconsistent with the area surrounding it, and the County Commissioners upheld that case as it was very clearly tied to a specific land use. He thinks this would be a great opportunity for everyone to continue to learn.

Mr. Bell stated that the first article says, "...but if a community finds that the Governing Board frequently takes action in contrast to the plans and recommendations, that would be an indication the community needs to update the area plans (which were done in 2016 and is being done with the Comp. Plan) or reconsider the expectations of review by the Planning Board and staff." He reiterated that staff make their recommendations, and it is all transparent. Just as a frame of reference, look at calendar years 2022 and 2023; there have been a number of cases that have either been appealed by one side or the other, or because it didn't receive the 75% vote, have gone to the Board of Commissioners. While it is a small percentage of the total of the ones that have gone since 2022, six (6) of them have been overturned. There also have been some that have been upheld by the Board of Commissioners.

Chair Donnelly stated that having watched the Board of Commissioners' meetings, he has heard them speak, and they take the Planning Board's actions very seriously, and in their considerations, that is one of the things that they have often mentioned. If there is not something compelling, they are hesitant to act in opposition to what the Board decided.

Mr. Alston stated that he spoke to a particular County Commissioner in the past on dealings the Board has dealt with. It is interesting that the Board listens to the public speakers, but if the Board's decision is not in their favor, the citizens just feel like, "Well, that's just the way it is because of the recommendation." Mr. Bell responded that that may be an opportunity where he may get comfortable making a motion.

Att. Mason stated that he has several thoughts on the discussion, and one is that this Board is sworn to make their decisions here, but the fact that the Commissioners may, on occasion, disagree with the decision of the Board is not problematic at all. This Board is an independent decision-maker, and that is what they are supposed to do. When it comes to community sentiment, the mere fact that twenty (20) people are opposed to it and no one other than the applicant is in favor of it, that in and of itself

does not speak to anything land-use related. But most of the time, community members will raise a mixture of concerns; but typically some of those are valid considerations in a land use decision. The Board has to listen closely as to what the concerns are because some of them are likely going to be valid concerns that the Board can consider, and some of them probably are not.

Mr. Alston stated that if there are no safety concerns, but the Board has heard that the proposal would impact the “Mom & Pop” store down the street, in his past conversations, is it more about money and revenue for the “Mom & Pop” store? Is it out of bounds for him to state that he realizes there are a large number of people who are opposed to the case, but he has to agree with the application because it fits the criteria of the land use? However, if the concerns are about the proposed use taking out the “Mom & Pop” store, he would recommend that they come together as a community and make sure they do everything they can to support the “Mom & Pop” store. Is that something that would be inappropriate for him to say during the meeting? Mr. Bell responded that is why it is a framework. He read a couple of sentences from one of the School of Government articles that speaks to that: *“Land use decisions or regulations must not be based on ownership status. Land use decisions are about land use, not about the former ownership of the development.”* Mr. Bell stated that he thinks everyone has a feeling or emotion about “Mom & Pop” stores, but it says what it says.

Chair Donnelly stated that his perception is that as they deliberate and share their rationale, that it is reasonable to say, “Hey, I recognize that your concern may not be based on land use, and I understand your concern and certainly appreciate that you, as a community may be able to do things to support that business owner.” That is not within our purview here, but making that comment is okay. Having that as a basis for the decision is not appropriate.

Attorney Mason stated that the way Chairman Donnelly responded to that is great. He would be careful to answer Mr. Alston’s question specifically, sitting here right now, because the Board members are public officials, and he would be careful about advocating that the community should support Business “A” rather than Business “B.” He stated that the members can observe and state to the audience members that the requirements must be followed.

Mr. Bell encouraged the members to take a look at the articles and read through them. It is not unusual to have strong feelings when folks come out about something because it’s changing the area where they live.

Chair Donnelly stated that he would like to comment that it has been his experience that he has found success learning enough so he can really argue that what he thinks is truly in the best interest and pull from that data on both sides, for development and against it. That is the advantage of being able to make a motion and digging into this

enough, as it allows him to draw from the resources that are there in making a decision and trying to balance those interests.

Mr. Craft stated that he has been on the Board for 3 ½ years and they have probably rezoned ten (10) parcels in that Northern High School area, and just by seeing all that and going out there regularly, it is in his mind that it isn't unreasonable to have another gas station and another shopping center in that area.

Rev. Drumwright added that one of the things that was difficult for him on that case was just the lack of transparency, and that was what the community was saying. It makes him uneasy because they were representing it before both the Planning Board and the Commissioners, that they are being not entirely transparent, but it seemed through the testimony on both sides that there was a lack of transparency, and that was a cause to pause.

Mr. Bell stated that if the Board feels that there hasn't been transparency, then the Board can request that that effort be revisited again in order to be transparent and can request that more information is given. The Board members asking for more information need to make it clear what they are looking for. He thought it was interesting that there were two (2) people speaking at one meeting; one said there were "x" # of people there, and the other said it was not that many people there.

Attorney Mason stated one important clarification he would like to make. He thinks that that is right in the legislative decision context. In the quasi-judicial context, he would advise this Board against that because whether somebody has met with the neighbors or not, it is not going to be a valid consideration.

Mr. Craft stated that in the interest of transparency, he wants to make sure that everyone is talking about the same thing regarding that case. It got approved a year or two ago without a gas station, and they came back. He wondered if it was a bait and switch, and they were thinking, "Let's get it approved without a gas station and we'll come back a year later and ask for the gas station." He asked if that was pertinent or relevant or even provable?

Attorney Mason responded that the question before the Board in that kind of situation is going to have to do with the appropriateness of the gas station, at that point, rather than whether it is done sequentially.

Dr. Bui asked Mr. Bell to elaborate a little bit on the difference between public interest and private interest. Per one of the articles, Mr. Bell stated that in NCGS 160D, it spells out what a conflict of interest is, for example, familial relationships. You also can look in the Rules of Procedure, and it has been drilled down a little bit more; if there is a conflict of interest, it calls for a member to recuse themselves from that case. In the

context of the article, Mr. Bell responded that it also is talking about different forms of ownership.

Chair Donnelly stated that the Board would now hear from Mr. Bell concerning the Comprehensive Plan.

Comprehensive Plan Update

Consider the following as part of the 2040 Comprehensive Plan Process:

- May 1st or 2nd – 1PM or 3PM: Joint steering committee – Planning Board?
- May 15th: Special Planning Board meeting?

Mr. Bell stated that staff is at the point now where they are starting to see daylight at the end of the tunnel, and one of the things the members got in their packages is the path forward for completion of the Comprehensive Plan. Staff put this together working with the Design Workshop, and it has been sent to the steering committee. He mentioned that the process is a bit more important than these specific dates. What is being proposed here is on April 11th at 3:00, there will be a steering committee to review the 90% document. On April 15th, the draft document will open for public comment for either two (2) or four (4) weeks (four weeks if needed). It will be put out there on the website and there may be other ways to get that information out. Then on May 1st or 2nd, either at 1pm or 3pm, there will be a joint steering committee meeting with the Planning Board. That would be a special meeting, and if they have more than a quorum, they would need to advertise. The purpose of that is the transition of handing it off from the steering committee to the Planning Board as a precursor for it going to the Board of Commissioners. The Planning Board is not required to have a public hearing on it, but they are required to make a recommendation because it is a land use plan document. The two members that represent the Planning Board are not available on May 15th, so in working with the Design Workshop, they have indicated that May 22nd would be an alternative date. The timing just didn't work out to have the Planning Board's recommendation at the May 8th regular meeting. To avoid the public hearing for the FY24/25 Budget on June 6, we are trying to send the Comprehensive Plan to the Board of Commissioners on June 20.

Chair Donnelly stated that he feels that the Board members' availabilities would have some influence on when that meeting is held that day. Mr. Bell stated that they are more concerned about what is beside the dates rather than the actual dates themselves. He will keep the Board members updated on the meetings and dates, as they may change.

Chair Donnelly asked if there was any other business anyone would like to bring before the Board and no one spoke up. Therefore, he would entertain a motion to adjourn by consent vote.

I. Adjourn

There being no further business before the Board, the meeting adjourned at 7:38 p.m.

The next scheduled meeting is April 10, 2024.