

**GUILFORD COUNTY  
PLANNING AND DEVELOPMENT  
PLANNING BOARD**

**Regular Meeting Agenda**

NC Cooperative Extension – Agricultural Center  
3309 Burlington Road, Greensboro, NC 27405

September 11, 2024

**6:00 PM**

**Call to Order**

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

**I. Roll Call**

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

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

The following members were absent from this meeting:

Sam Stalder and Guy Gullick

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

J. Leslie Bell, Planning and Development Director; Oliver Bass, Planning & Zoning Manager; Avery Tew, Planner I; Robert Carmon, Fire Marshal; and Andrea Leslie-Fite, County Attorney

**II. Agenda Amendments**

None

**III. Approval of Minutes: August 14, 2024**

Chair Donnelly stated that there were only a few minor corrections made to the minutes of August 14, 2024 Regular Meeting. The minutes for August 21, 2024 Special Meeting will be in the packet for October.

Rev. Drumwright moved approval of the minutes of August 14, 2024 Regular Meeting as revised, seconded by Ms. Buchanan. The Board voted 7-0 (unanimously in favor of the motion. (Ayes: Donnelly, Bui, Drumwright, Little, Alston, Stalder, Craft. Nays: None.)

**IV. Rules and Procedures**

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

**V. Continuance Requests**

None

**VI. Old Business**

None

**VII. New Business****A. RESOLUTION OF INTENT FOR EASEMENT CLOSING CASE #24-08-PLBD-00090: 1458 NC HWY 61 S. (APPROVED)**

Oliver Bass stated that this is a Resolution of Intent for an easement closing on property located at 1458 NC Hwy 61 S. This request is to adopt the Resolution of Intent to close a water quality control easement and to set the date of the proposed hearing for October 9, 2024, at the next Planning Board regular meeting. This easement is located at the Peacehaven Farm property. This is associated with a proposed site plan that was presented by Peacehaven Farm.

Mr. Craft stated that he was not really familiar with what this is and will learn more about it at the next meeting, but because it is a water quality easement and so close to Lake Macintosh, has the City of Burlington been notified about this request? Mr. Bass responded that they would be notified of the public hearing.

Chair Donnelly asked if the easement was going to be eliminated or simply relocated? Mr. Bass stated that it was going to be relocated to replace the acreage that is being removed, but the process to close has to go through the Resolution of Intent to close the easement.

Mr. Craft moved to adopt the Resolution of Intent as presented, seconded by Dr. Bui. The Board voted unanimously (7-0) in favor of the motion. (Ayes: Donnelly, Bui, Drumwright, Little, Alston, Buchanan, Craft. Nays: None.)

**Legislative Hearing Item(s)****A. CONDITIONAL REZONING CASE #24-07-PLBD-00089: CZ-LB, CONDITIONAL ZONING-LIMITED BUSINESS (Case #06-09-GCPL - 04709) TO CZ-LB AMENDED CONDITIONAL ZONING- LIMITED BUSINESS- 4710 HICONE ROAD (APPROVED)**

Oliver Bass stated that this property is located at 4710 Hicone Road (Guilford County Tax Parcel #126901 in Monroe Township) approximately 250 feet east of the intersection of Hicone Road and Rankin Mill Road and comprises approximately 1.59 acres. There is no history of denied cases. This is a request to conditionally rezone the property from CZ-LB, Conditional Zoning Limited Business, to CZ-LB Amended (reference case #06-09-GCPL-04709) to allow convenience stores as a permitted use (all other existing use and development conditions will remain) with the following conditions:

**Use Conditions** – All uses permitted in the LB District, excluding: (1) Billiard Parlors, (Other Indoor Uses Not Listed); (2) Fortune Tellers (Personal Service); (3) Astrologers (Personal Service); (4) Kennels or Pet Grooming Services; (5) Veterinary Services (Animal Services); (6) and Land Clearing and Inert Debris Landfills, Minor (Same use conditions as the reference case save that convenience stores will be allowed.)

**Development Conditions** – (1) Building materials on fascia of any building shall be brick or masonry. (2) Any outside lighting shall be directed away from adjoining residential property. (3) Along the adjacent property line with residential property, an opaque fence and/or earth berm shall be constructed and maintained. (4) Within any planting area along the adjacent property line of any residential property, the plantings shall be evergreen vegetation to provide a buffer. (5) One monument sign shall be permitted at the street. (Same development conditions as the reference case)

The **LB, Limited Business District** is intended to accommodate low-intensity office and retail services in a rural setting. This district serves nearby neighborhoods with basic convenience goods and services. It is typically located at the intersection of local collectors or thoroughfares. Pedestrian and vehicular access should be provided.

The **CZ, Conditional Zoning District** is established as a companion district for every district established in the Unified Development Ordinance. All regulations which apply to a general use zoning district also apply to the companion conditional zoning. All other regulations which may be offered by the property owner and approved by the Jurisdiction as part of the rezoning process, also shall apply.

The subject property abuts a commercial plaza to the west along the intersection of Hicone Road and Rankin Mill Road zoned CD-C-L, Conditional District Commercial-Low within the City of Greensboro. North of Hicone Road, across from the subject property, is a church on a lot split-zoned PI, Public and Institutional, and RS-3, Residential, and the Briar major subdivision zoned RS-3. The parcel east of the subject property is vacant and falls under the same CZ-LB zoning as the subject parcel. Abutting the subject lot to the south are lots within the Burlwood major subdivision, zoned RS-30.

There are no anticipated impacts on public school facilities. The site is approximately 3 miles from the nearest Fire Station (Bobby Carmon, Fire Marshal, indicated that in fact the nearest station is 1000 ft or 0.19 miles away). Water and Sewer Services are provided by Greensboro, and this is within the Greensboro Service Area. Hicone Road is a major thoroughfare under the 2005 Greensboro Urban Area MPO Thoroughfare Plan with annual average daily traffic with 4,400 vehicles per day according to the 2023 NCDOT traffic count. There currently are no proposed road improvements in the area. New development would be subject to an NCDOT driveway permit. The topography is gently sloping. There are no regulated floodplains on the site and no mapped streams on the site.

Land Use Plan: Northeast Area Plan with a recommendation of Light Commercial. The Light Commercial, LC, designation is intended to recognize land currently zoned, or recommended to be zoned, Limited Business (LB), Neighborhood Business (NB), and Limited Office (LO). The proposed rezoning is consistent with the recommendation of Light Commercial under the Northeast Area Plan and with Objective 1.5 and Policy 1.4.3 of the Future Land Use Element of Guilford County's Comprehensive Plan which states:

Objective 1.5 - Recognize and respect the unique characteristics of Guilford County's unincorporated and emerging communities.

Policy 1.4.3 - Reference adopted Land Use Plans and recommended uses and densities/intensities, when applicable, in conjunction with rezoning staff reports presented to the Planning Board.

Staff Recommends: Approval - The request to conditionally rezone the subject parcel from CZ-LB to CZ-LB amended is reasonable and in the public interest because it is consistent with the Comprehensive Plan and the amendment to the conditions of the reference case (#06-09-GCPL-04709) would only alter the permissibility of convenience stores as a use. The convenience store at the location has been in business since 2008 without complaint. Area Plan Amendment Recommendation: The proposed rezoning is consistent with the Guilford County Northeast Area Plan

recommendation of Light Commercial. If the request is approved, no land use plan amendment will be required.

Mr. Craft asked how this request came to staff as being out of compliance with the current zoning? Mr. Bass stated that the operator of the convenience store approached the County as they had to renew their ABC Permit, and in an attempt to get their zoning sign-off, it was noted that convenience stores were not permitted on that site.

Chair Donnelly opened the public hearing and asked for those wishing to speak in regard to the request to come to the speaker's table and state their name and address for the record and no one came forward. The public hearing was closed by acclamation.

#### Discussion

Chair Donnelly stated that when he went by the property, it looked like the original primary tenant was a Dollar General store, and this is just a convenience store with no gas pumps. He did not see anything that was of concern to him.

Dr. Bui moved to approve the Conditional Rezoning Case # 24-07-PLBD-00089, from CZ-LB Case # 06-09-GCBL-04709, to CZ-LB amended Conditional Zoning – Limited Business, which is located at 4710 Hicone Road in Greensboro and approve the zoning map amended, located on Guilford County Tax Parcel #126901 from CZ-LB to CZ-LB amended, because the amendment is consistent with the applicable plans because the proposed rezoning is consistent with the Guilford County Northeast Area Plan recommendation of Light Commercial, therefore no land use plan amendment will be required. The amendment is reasonable and in the public interest because it is consistent with the Comprehensive Plan and the amendment to the conditions of the referenced case, #06-09-GCPL-04709, would only alter the permissible ability of convenience store as a use. The convenience store at the location has been in business since 2008 without complaint. Mr. Little seconded the motion. The Board voted 7-0 in favor of the motion and the request was granted. (Ayes: Donnelly, Alston, Bui, Craft, Buchanan, Drumwright, Little. Nays: None.)

#### **B. CONDITIONAL REZONING CASE #24-08-PLBD-00093: SUMMERFIELD DE-ANNEXATION ORIGINAL ZONING**

Leslie Bell stated that as a follow up to the Board's August 21<sup>st</sup> Special Meeting regarding the zoning of approximately 1,000 acres de-annexed by way of House Bill 909 Session Law 2024-20, and previously being within the town limits of Summerfield, Case #24-08-PLBD-00093, comes before the Board this evening based on Board action taken at that meeting. More specifically, the Board remanded eleven (11) of those parcels back to staff

for direction to bring forth another recommendation or alternative zoning that may preserve existing use opportunities while providing additional restrictions based on concerns expressed during the August 21, 2024 legislative hearing.

Those Guilford County Tax Parcels are identified as: #149642, 149643, 149645, 149651, 149653, 149688, 149658, 150130, 217566, 149659, and 149662 in Summerfield Township, comprising approximately 148.58 acres as shown on the map. These parcels were zoned AG, Agricultural, Office/Institutional, and Business by the Town of Summerfield. Subsequent updated information received by Guilford County GIS by way of Piedmont Triad Regional Council indicates that parcel #149642, which is map ID #28, was rezoned by the Town of Summerfield from RS to Office/Institutional.

Seven (7) of these parcels are located in the triangle bounded by I-73, Deboe Road and Oak Ridge Road. They are identified on the map in the packet as: "A", "J", "K", "O", "P", "Q", and "R", or on the map ID ledger numbers 24 through 30.

The remaining four (4) parcels are located south of the aforementioned parcels, generally adjacent to Oak Ridge Road. Those are identified on the 2<sup>nd</sup> map as: "A", "B" and "C", and then on the 3<sup>rd</sup> map as, "A". Those are identified as map ID numbers 33 through 36.

The hearing tonight has been duly noticed, the property posted, and adjacent notifications were mailed out, and the hearing this evening was noticed on the Guilford County website. Based on that direction from the Board, staff is recommending a Conditional General Business (CZ-GB) district that reflects, to a degree, those uses previously allowed under the Town of Summerfield Business or BN district with existing conditions and reflects current requests to allow certain uses and prohibit certain uses under the County's General Business (GB) zoning. This is by consent of the property owner of these parcels, as evidenced by Mr. David Couch's signature on the application, as he represents the various entities that currently own these eleven (11) parcels.

Mr. Bell indicated that methodically, in response to the Planning Board's directions, staff first reviewed and compared uses allowed under the Town of Summerfield's Business district (BN) with Guilford County's General Business (GB) district as a starting point. Thus, those uses to be prohibited are listed with strikethroughs. He directed the Board's attention to the table, which also is included in the packet. Those strikethroughs are uses that were not allowed in the Business district by the Town of Summerfield. Secondly, staff reviewed prior Town of Summerfield zoning actions related to the Town's conditional zoning action on August 13, 2019 (a copy of those minutes also are provided in the packet) that reflects those uses the

property owner voluntarily excluded or conditioned out. Those uses in yellow represent those uses previously excluded but requested to be considered as allowed uses with this action here tonight.

Lastly, uses identified with the red arrow reflect those uses allowed under the County's General Business zoning district, but that are not allowed under the current Town of Summerfield's Business district. In some instances, some of those uses are being requested by and with consent of the property owner to be prohibited as part of this zoning consideration. For example, construction and demolition (C&D) landfill. Remaining then are 83 potential uses for these 11 parcels based on the County's GB zoning district. Under the current Town of Summerfield Business zoning, there are a total of approximately 166 uses when accounting for those uses voluntarily prohibited with the property owner's consent and based upon the action taken by the Town of Summerfield on August 13, 2019.

In summary, this is a proposal to zone 11 subject parcels Conditional Zoning General Business (CZ-GB) with the following conditions:

Use Conditions – All uses permitted in the GB District, except: (1) Homeless Shelter; (2) Country Club with Golf Course; (3) Fraternity or Sorority (University or College Related); (4) Cemetery or Mausoleum; (5) Truck and Utility Trailer Rental and Leasing, Light; (6) Bus Terminal and Service Facilities; (7) Taxi Terminal; (8) Construction or Demolition Debris Landfill, Minor; (9) Land Clearing & Inert Debris Landfill, Minor; (10) Electronic Gaming (Other Indoor Uses Not Listed); (11) Psychiatric Treatment Facilities (Hospital).

The Planning Board is not limited to the proposed zoning of these parcels and may consider [other] changes to the proposed zoning.

The property owners may initiate a zoning map amendment (rezoning) at any time after the County establishes the original zoning for these parcels.

The GB, General Business District is intended to accommodate moderate to largescale retail, business, and service uses along thoroughfares and at key intersections. The district is characterized minimal front setbacks, off-street parking. Quality design, shared access, and shared parking are encouraged.

The CZ, Conditional Zoning District is established as companion districts for the base districts. Existing land use(s) on the properties are undeveloped, vacant, and single-family residential. There are no known cemeteries to be located on or adjacent to the subject properties. There are no anticipated significant impacts for schools at this time. Emergency response for the Town of Summerfield is through the Fire Protection Service District

(Summerfield FPSD), and water and sewer services at this time will be private septic systems and wells.

In conclusion, the parcels are not currently under any Guilford County area plan. However, the de-annexed parcels are geographically close to the area of the County covered by the Northwest Area Plan. To be covered by an existing area plan, the Northwest Area Plan would need to be amended to incorporate the affected parcels. The Moderate Commercial (MC) land use classification would be appropriate for parcels that were zoned BN within Summerfield and those adjacent to the Oak Ridge Road and I-73 interchange. Thus, the proposed zoning of GB would be conditionally consistent with the MC land use classification. MC is intended to recognize land currently zoned Mixed Use (MXU) and a range of moderate intensity uses in land currently zoned Highway Business (HB) and General Business (GB).

Similarly, the draft Guiding Guilford Comprehensive Plan was prepared prior to the de-annexation of the subject parcels. Therefore, the parcels would fall within the northwest quadrant of the Plan's Future Land Use Map (FLUM), if approved. The proposal of GB zoning would be reflected in the Commercial FLUM place type. Potentially, as Neighborhood Center as currently drafted. The Plan Recommendation is designated as currently not covered (see Area Plan Amendment Recommendation below). The request is consistent with Objective 1.5 and Policy 1.4.3 of the Future Land Use Element of Guilford County's Comprehensive Plan which state: Objective 1.5 - Recognize and respect the unique characteristics of Guilford County's unincorporated and emerging communities. Policy 1.4.3 - Reference adopted Land Use Plans and recommended uses and densities/intensities, when applicable, in conjunction with rezoning staff reports presented to the Planning Board.

Staff recommends Approval. The request to conditionally zone the subject parcels to CZ-GB (applying use conditions) under the Guilford County UDO is reasonable and in the public interest because initiating this action complies with NCGS 160D-202(h) and UDO Sec 1.4.B. The CZ-GB zoning district is recommended for the parcels adjacent to the Oak Ridge Road and I-73 interchange, because Oak Ridge Road is a major thoroughfare and creates a key interchange with I-73, which conforms with the intent of the GB district. The CZ-GB zoning district conforms to the original zoning designation of BN, Business, in Summerfield for 7 (see Map Index #s for list of parcels) of the 11 parcels that were originally zoned BN in Summerfield. The Town of Summerfield development regulations and powers of enforcement shall remain in effect until (i) the County has adopted such development regulations or (ii) a period of 60 days has elapsed following the action by which the Town relinquished jurisdiction, whichever is sooner. The properties currently are not subject to any of Guilford County's area



plans. If the request is approved, a land use plan amendment to the Northwest Area Plan will be required to extend the Moderate Commercial (MC) land use classification to the subject parcels.

Chair Donnelly clarified with staff that the GB district permits multifamily but there was nothing specified that would limit the density. That was affirmed by Mr. Bell.

Mr. Craft expressed concern about putting GB zoning where there is a lot of housing that was once zoned AG but will go to GB.

Chair Donnelly opened the public hearing and asked if there was anyone wishing to speak on this matter.

Tom Terrell, 529 Parkway Drive, is the attorney representing Summerfield Farms DFC, which is the broad owner of these properties (and any other properties subject to this evening's hearing of which David Couch has ownership). Everyone knows, generally, why they are at this meeting. He did not address it at the special meeting and probably should have. Everyone knows that these properties were de-annexed, but the real issue is, why were they de-annexed? He wants to go a little bit deeper. They are here tonight because the Town of Summerfield decided that when Mr. Couch signaled he might do a rezoning, they were going to increase the filing fee for a rezoning 38,000% to \$192,000.00. Ms. Robinson stated that they had changed that, and they did, but he had to threaten litigation against the Town for that to happen. They are here now because the Town imposed a 3,000-foot no-build, scenic corridor only on the roads surrounding Mr. Couch's property and nowhere else in the Town of 27 square miles. They are here because City Council refused to talk to Mr. Couch over a period of time when he was trying to get text amendments. They are here because they imposed a new UDO that says that if you do an open-space district they could take out any land that looks pretty, called a view-shed. They can take out community resources, which included woods and pastures. In other words, they can take out anything they want to. They are here tonight because this is the largest town in three states on well and septic, and that is intentional because wells and septic hinder density, and public water and sewer enable density, and density enables somebody to have housing of types that Summerfield will not accept. They are here because they fired their Town Manager because he spoke to Mr. Couch, the largest landowner in Summerfield, without the Town Council's permission. That was actually stated at a Council meeting. The entire Town staff of nine walked out en masse - their attorney, their IT consultant, their outside auditor, all resigned.

They are also here because every person who has been a supporter of Mr. Couch, as they have seen, has been systematically purged from the Boards that they serve on. The NAACP has said this is one of the most egregious

uses of zoning that they have seen across the country to control who lives in that community. They have every one of the quotes on video, they are not made up, these are what they heard at the public hearings. Why do non-white, non-Christians live in apartments? Look at a 40-unit apartment complex and 35-40 are non-Caucasians. Quote – “I like apartments but there’s a place for them.” He is afraid that when they bring in apartments, these nature trails are going to be dark alleys and once crime hits, people are not going to want to be on the trails. This Town has suffered enough and its time to put a stop to this. “If you can’t afford to live in Summerfield, go live somewhere else.” They are against apartments, they bring traffic, crime and home values will suffer. They heard these comments back in the 1950s, when the white citizen councils were trying to keep schools from segregating there.

They are here because Summerfield intentionally and knowingly uses its governmental powers, through zoning, to mandate large residential lots, much larger than what the Health Department requires, and they know that when they can mandate large lots, it manipulates the land price through their governmental powers. Those governmental powers then manipulate the housing costs, that in turn manipulates the price tag of citizenship. That is not a proper use of governmental powers. He asked the Board why the Town of Summerfield would have a voice in this hearing, at all, after it has targeted Mr. Couch and these specific properties to make them 100% undevelopable. He presented a slide that showed the no-build scenic corridor that he has been referencing. At the top GB tract, that 3,000 foot no-build corridor was measured so it precisely was just wide enough to 100% make that tract unbuildable by the Summerfield Town Council. He feels that they should have no voice in what the zoning of these tracts are. These properties are adjacent to a State Highway and an Interstate Highway. This is where communities everywhere put industrial, general business, commercial and multi-family because it makes sense. It should be allowed as GB because Summerfield previously zoned that upper tract to GB and included multi-family, so that should be allowed on that upper tract. Now they are saying “no apartments.” He explained that the plans for the properties would be for eleven distinct villages, compact and completely connected. One-half has been planned for commons and greens and conservation, which was the original design for this. He presented a proposed drawing of the development for the area. He pointed out that Parcel #149662 should be considered for Office/Institutional. He asked for everything else to be zoned GB and for multifamily to be allowed.

Mr. Craft said a fraction of the housing would be multi-family, and he asked if it would be less than 10%. Mr. Terrell responded that the original plan was to have 50% in either open space, civic space or conservation space, but it would be protecting the green space. The design team has a mantra, “start with the green spaces, and protect those green spaces.” The project that

was shown to Summerfield is now going through a feasibility study, and they are looking at costs again, and they are in a new age, a new economy, and everything has changed, so that is subject to being tweaked. At the time, less than 3% of the land mass would have had apartments on it. Mr. Terrell stated that they want to consider 80% of the County median income as affordable housing. Ms. Buchanan stated that she wanted some numbers put with how affordable housing is defined.

Rev. Drumwright stated that Mr. Terrell has presented some very thorough information, but it begins to be very vague around the subject of what affordable housing would look like, even without presenting specific median income of 80% in Guilford County and what that is. That is something that is so easily attainable, and it raises a lot of red flags for him, regarding the transparency of the intentionality for there to be true affordable housing accessible for residents of the future development. In their previous meeting, the Board was encouraged not to bring it up in this conversation because they are not at this juncture, but he is grateful that Mr. Terrell has made it a part of his presentation because it presents the opportunity to talk about it. Mr. Terrell is also vague about the emerging 50% green space, as he had said that number could go up or down, but the developer that he represents is proposing to bring greater population to these zoning areas. This is a concern of the people, and he asked Mr. Terrell to address why he is being so vague about these areas that are concerning the public.

Mr. Terrell responded that there is no doubt that the number of people will go up, so it's the percent of the project, which they consider 979 acres, that would remain in green space, where the long vistas would be able to be protected. That percent is green space, open space, conservation space and included in that would be public parks, civic space. That could go up or down because the project now is undergoing a feasibility study. It has been over 4 years since they started this plan, and the market demands and pressures change, so they are very aggressively going into this to make sure that nothing is done that is unsupportable by whatever the demands are. With respect to the vagueness of what will be affordable, he assures that no housing that is being built today in Summerfield is affordable by any definition. No one can afford to buy land in Summerfield to build a house for anything less than one-half million dollars, and it is actually much higher than that. Mr. Couch is actually – anything he does is a substantial increase from what currently is there. The median income for the County is around \$60,000 for a household. Guilford County is much lower than Summerfield, and that is why Mr. Couch does not want to use the Summerfield manipulated data but instead use the County data, which is a true reflection of the income disparity in this area.

In response to a question posed concerning the NAACP complaint, Mr. Terrell stated that he would be glad to forward a copy to Rev. Drumwright.

It was filed with the NC Human Relations Commission, and it was not a complaint filed in court. Mr. Terrell indicated that you have to go through the State process first and there is a law firm in Washington, DC that is working with the Lawyers Committee. He does not represent them or direct them, he doesn't know where they are, at this point, regarding the complaint from the NAACP. Rev. Drumwright asked Mr. Terrell to go into more detail about that. Mr. Terrell stated that the NAACP would be the complainant that is being represented by the Lawyers Committee, and they would be represented by the very large firm in DC. It is a firm that represents entities that are concerned about governments who use their powers, as Summerfield has done, to manipulate land price, and by manipulating the land price, thereby, affect and control who has the right to enter into what they consider their town. It's actually very common across the country that communities do this. The NAACP probably got wind of this because he was pointing out to Summerfield that they have a Fair Housing issue, it's on its face, they had a Fair Housing issue. When you point that out, the people who are the most egregious violators of that are the very first ones to recoil and say, "Oh, no, not me." And there has been a lot of denial as to what their phrases mean. It's not always what people say at these hearings country-wide, it is when those statements are adopted by the Council. That is the trigger point. If that Council had said, "We distance ourselves from all of these comments, we are not listening to them, they are not affecting us", the NAACP would never have written the complaint that it wrote but something else happened, and it was just the opposite.

Chair Donnelly stated that they are getting pretty far afield from the matter that is before the Board tonight. One of the things that he recognizes is that there is no shortage of animosity among the folks who have been involved in this for a period of time. The focus here tonight is an initial zoning of some parcels that have come into Guilford County. They are not looking at any development plans this evening; they are simply looking at initial zoning for these parcels, and he invited folks to bring their comments back to what is relevant for the matters before the Board this evening, not that these matters are not of importance, in general, but for the Board's consideration. He thinks they need to focus on things that are going to be important for their decision-making this evening.

Mr. Terrell stated that the Town Council did the opposite. They said, "We have to do what our voters and citizens ask us to do." Thereby, they embraced the comments.

Chair Donnelly stated that when they looked at a drawing of the future vision, and noted that almost all the property that was shown was the property that had been previously rezoned. Chair Donnelly asked if Mr. Terrell had any more that he would like to offer in terms of the use of these

particular parcels that are the subject of the zoning request this evening? Mr. Terrell responded “No”, that the Town of Summerfield, itself, rezoned the property in that upper quadrant adjacent to Deboe Road and I-73, to General Business including multi-family so he didn’t think it was necessary to show any vision of that but it would be a General Business tract.

Rev. Drumwright stated that they have been dealing with a large number of residents as reflected in the presentation, so is there some support from amongst the residents for this request? Mr. Terrell responded that there were, at every public hearing, probably 25% - 35% of the speakers were in favor of this rezoning. They supported this type of vision and future of Summerfield. There were some folks who spoke against what they thought was the improper use of governmental powers, but for the most part, there was very strong support.

Chair Donnelly asked if there was anyone else wishing to speak in favor of the request?

Davita Martin, 7348 Henson Forest Drive, stated that she wanted to ask for consideration for the amendment that Mr. Terrell just introduced to the Board to change zoning for Parcel #149662 to Office/Institutional. She hopes the Board will consider that favorably.

Guilford County Attorney, Leslie-Fite, stated that as a reminder, this is a County initiated zoning, so the request for the amendment would need to note that the County is in agreement with that amendment, as well as the applicant.

Chair Donnelly asked if there was anyone wishing to speak in opposition to this matter and asked that speakers sign in and also state their name and address for the record. He noted that there is a total of 20 minutes for the speakers.

Attorney Leslie-Fite also added that in 2009, the NC General Assembly adopted some amendments to the NC Fair Housing Act, and as part of that, there was an expansion, not just a prohibition on race, color, religion, sex, national origin, handicapped, or familial status, but it also includes a prohibition on discrimination based upon financial status. The statute reads as follows in 41.a.5(a) 4: “A local government intends to discriminate if in making the decision the local government was motivated in full or in any part, at all, by the fact that a development or proposed development contains affordable housing units for families or individuals within incomes below 80% of the area median income.” The commentary on this topic from Coates Canon, which is an affiliate of the UNC School of Government, goes on to say, “Discrimination is deemed to be intentional. The only apparent defense is that a local government may offer is that the decision is based

on considerations of limiting high concentrations of affordable housing. If discrimination is unintentional but has a disparate effect, then the governmental unit may alternatively interpose, as a defense, that the action was motivated or justified by motivated governmental interests.” She stated that this is an initial zoning and there has been some discussion about the affordable housing, or lack thereof, that is really not the purpose of the Board meeting tonight. She would remind the Board members that including conversations about affordable housing, or lack thereof, could subject this decision to consideration under what she just highlighted. She advised the Board to be mindful as the discussion moves forward.

Mr. Craft wanted the record to reflect that his intent was to clarify what Mr. Terrell was saying about some of the features of the potential development and not to use those items as the basis of the land use decision.

Rev. Drumwright asked Attorney Leslie-Fife to clarify if the conversation is relevant to the proceedings tonight. Attorney Leslie-Fife stated that it should not be a part of the zoning analysis for or against the proposed zoning.

Chair Donnelly again asked if there was anyone wishing to speak in opposition to this matter and asked that speakers sign in and also state their name and address for the record. He noted to be mindful of the time.

Gail Dunham, 2805 Snow Hill Rd, has lived in Summerfield for 20 years. She said Summerfield does not have public water and that is one reason she prefers to have overall low density until it is known when the area can receive public water. She previously served as Mayor of Summerfield and referenced the Timmons water study on the feasibility of serving the Town with water. The vote was “No” because it would be cost-prohibitive. Also, airport expansion typically gets priority because it is a driver for economic development and is what they are trying to accommodate. She thinks the solution would be for the County to take this area over as a project based on its expertise. She noted that traffic from US 220 is an important crossroad, and if Highway 150 is going to be widened, the County must consider what historic structures will be demolished. She recommends the county do a traffic count on Highway 150.

Janelle Robinson, 4945 US Highway 220 South, stated that this was the first time she had heard about affordable housing from Mr. Terrill before tonight. She said that in a proposed text amendment, the developer wanted 5 percent developer-subsidized apartments for a period of time, but the Town wanted 15 percent affordable housing for all housing types and to use Guilford County’s income. Affordable was never mentioned by the developer. The developer mentioned concierge apartments but never mentioned affordable housing. She did not believe these housing types

would be affordable. They got a letter from the NAACP on the night before the vote. They asked them to tell the Town what they wanted the Town to do but did not receive any direction. The developer mentioned selling property for a private or charter school, not a public one, and she stated that residents of the area are unlikely to attend. She stated that as a member of the Town Council, she never met with the developer in private. She stated that the Town does not allow multifamily dwellings in the Business district and asked that the Board take out the multifamily use. Summerfield was willing to allow 319 apartments under its Village zoning district, but the developer wanted more than 900 units.

Heath Clay, 1100 Stallion Court, stated that he is with the Summerfield Town Council and that the developer never gave him an opportunity to discuss the development. He noted that the developer's representative gave some inaccurate information. The Town is developing a water tower that is the first of its kind in North Carolina. They are asking for consistency with what they already have in the area. Specifically, they ask for parcels 149662 and 149651 to be zoned as AG; 149653 to be zoned as RS-40; 149645 to be zoned as PI; and 149642, 149643, 149645, 149688, 149658, 150130 217566, and 145659 be zoned GB but consider a condition to exclude multifamily dwellings as a permitted use since it is not allowed in the Summerfield Business district. He stated that Summerfield supports the guiding principles of living and working in Summerfield and Guilford County.

Glenn Popp, 7815 Wilson Farm Rd., stated that he is not with the Summerfield Town Council but a homeowner with a family that has lived here for seven years. He does not want the town of Summerfield to lose that hometown feel. He referred to parcel 36 on the Map ID Reference Map as a parcel he wants to see used for office space rather than retail. He stated that multifamily housing is a lot, and he is concerned about the potential impact on water.

Don Wendelken, 3406 Windswept Dr., stated that Mr. Terrell's statement that Summerfield should have no voice in this zoning caught his attention. People living in Summerfield have a huge investment, so they have a strong voice in what occurs. He disputed the comment that residents of Summerfield are racist and stated that it was uncalled for.

Chair Donnelly opened a 5-minute rebuttal period to comment on things relevant to the decision on the 11 parcels that are up for initial zoning. First up are those for the proposed initial zoning.

Mr. Terrell stated that the Town of Summerfield should not have a voice in the initial zoning when it took away 100 percent of Mr. Couch's right to develop his property for personal reasons. He stated that he never

experienced a land use issue like he experienced in the Town of Summerfield.

Chair Donnelly then opened up a rebuttal period for those speaking against the initial zoning.

Ms. Gail Dunham reiterated that this is about rezoning, and it is an extremely important part of Guilford County's economic future, not just whether we have apartments or affordable housing. The County should take another look at Highway 150, Highway 220, and I-73 before making a decision on the impact of zoning on traffic.

Chair Donnelly stated that we as a Board are required to apply initial zoning to these areas. Because there is a timetable involved, the option not to zone is an option we don't have available. He then asked if anyone else wanted to speak. Since no one came forward, he asked if there was a motion to close the public hearing.

Ms. Buchanan moved to close the public hearing, seconded by Mr. Little. The Board voted unanimously in favor of the motion.

By acclamation, the Board took a 5-minute recess and reconvened the meeting at 7:58 PM.

Chair Donnelly asked Mr. Bell to present the slide that listed the guiding principles that the staff considered in its recommendations for the de-annexed properties. Mr. Bell read the guiding principles used to compile the information presented to the Board. He stated that staff has no issue with the zoning offered by the owner's representative for the parcel south of Oak Ridge Rd and left of the interstate to go to Office/Institutional (at times referred to as the Martin track this evening).

Discussion:

Mr. Little expressed concerns about two parcels, Map ID 34 and 36. They are both AG now. How did the staff decide to recommend GB? Mr. Bell explained that staff considered the proximity of these parcels to both an interstate and a thoroughfare. That is why GB was recommended for those parcels.

Ms. Buchanan stated that she was not sure how the multifamily in the GB district falls within the guiding principles. Mr. Donnelly stated that GB does not provide any framework for multifamily housing density. As an example, he cited from the UDO that RM-8 allows a maximum of 8 units per acre. He is mindful that we are looking at the initial zoning but would be interested in considering a specific development that would allow the Board to look at a



relationship of that particular use to other uses on the parcels. That is his concern with the multifamily as a use in the GB district.

Mr. Alston asked what if the developer found that the apartments would not work? Mr. Bell stated that if the applicant found that the apartments would not work, they could return to rezone or amend the zoning to exclude a particular use(s).

Ms. Buchanan stated that she felt the Board would not be good land stewards by allowing multifamily development without restriction(s). It does not conform with the current characteristics of the area by allowing unhindered growth.

Mr. Drumwright stated he does not find the rezonings presented to be reasonable and does not think they are in the public interest. Some of the discussions regarding the forthcoming density indicate that the school system cannot support potential multifamily development, which should be considered.

David Craft asked if the parcels in the southeast corner of the intersection should remain AG and if they can be zoned to something else when an owner comes up with specific plans. He stated that apartments are needed so people can work without traveling several miles.

Ms. Buchanan recommended that the northeast section be zoned GB but remove the multifamily use. When there's a plan in place, they can come back with a multifamily use. That way there can be a limitation placed.

Dr. Bui said she understands that our job is to make the decision on zoning. Our decision does impact the community, and we should listen to their concerns. We can't take in all of their concerns because we can only decide on the zoning. The decision made by the Board is huge and impacts the community. Although we are limited in taking on concerns of the citizens, I am torn in that aspect.

Chair Donnelly proposes to the Board that the parcels within that triangle as CZ-GB (Conditional Use General Business) with the exclusion of multifamily and the remaining four (4) parcels to be zoned AG.

Mr. Alston indicated that he saw an area similar to this in the area of Gate City/Jamestown near the Publix where there are apartments along the highway with the other uses close by and it works.

Chair Donnelly stated that they are not excluding that, they are limiting it, right now, and what they are trying to do is apply initial zoning and he looks forward to, as Mr. Alston said, the future vision that's here and seeing

development proposals that talk about doing exactly what Mr. Alston has said. He would like to see that in the context of a development proposal, rather than a broad use that doesn't have any limitations with it.

Ms. Buchanan stated that she feels this would be the perfect spot for some sort of use along those lines, especially if you include green space and some shopping, it could be wonderful. But if they just paint the whole thing with broad strokes, anything can happen there with zero limitations. They have to respect the surrounding areas.

Dr. Bui stated that she can disagree with Mr. Alston regarding having a GB in a certain area, within that community, but tonight they are here to make a decision on the zoning or re-zoning and with that, she feels they need more clarity to be able to make that decision. Leaving it out for now, as Chair Donnelly has proposed, she agrees with that because right now, they just don't have all that clarity from the developer. It is not part of their job at this time, to look into that, they are here to make a decision on the initial, or the re-zoning.

Counsel Leslie-Fite stated that as indicated earlier, the request is for a Conditional Zoning General Business for all of the parcels and so, what Chair Donnelly has proposed would be a deviation and, in the interest of public notice and public information to disclosure about what could possibly happen here, with a conservative reading of the Case Law, would suggest that re-Noticing any change of this type, especially as it relates here, could constitute a substantial change and she would advise the Board that if it is leaning in that direction, that it be re-Noticed to allow for public input on that change. No conditions beyond what the developer has already consented to would be appropriate without seeking further consent, so she thinks Chair Donnelly had alluded to that earlier, but just as a reminder.

Rev. Drumwright asked where does that leave the Board tonight? If the developer's request in this time-line they are up against, is not approved by the Board.

Chair Donnelly stated that what he would offer, along that line, would be a similar proposal to what they did last time, which is propose action on those seven (7) parcels, that if they all have agreement, that those seven (7) parcels will be CU-GB and they can get agreement with the conditions, that they could take action on that tonight and remand to the staff, with their direction in terms of the interest in having that more reflective of the current uses and the current surrounding and to bring that back at a subsequent meeting that could then be Noticed. That would be his proposal.

Mr. Craft asked Mr. Bell, if they would have to get the agreement of the property owner to add the apartment limitation and if they say, "No", then where are they?

Mr. Bell stated that the Board would have to vote on what is before the Board tonight.

Counsel Leslie-Fite stated that they would have to vote on the application, as it is.

Mr. Craft stated that if it gets voted down, then it has to get re-submitted and advertised again and some other format that would hopefully be acceptable to the Board.

Counsel Leslie-Fite stated that unless it is appealed.

Chair Donnelly stated that there is one other option that he was going to throw out, which would be, they could remand it back to the staff since this is a County-initiated zoning, if the County were to bring forward a zoning request that did not include multi-family, they could do that under a General Zoning district that didn't include multi-family and that could come forward as the proposed zoning, if he is not mistaken.

Mr. Bell stated that he would like to articulate that. "If the property owner doesn't consent, then Chair Donnelly is suggesting a zoning district that doesn't allow multi-family.

Chair Donnelly stated that he is suggesting that they remand it back to the staff and that the staff then bring forward something that's not a Conditional Zoning, because this after all, a County-initiated zoning --- a zoning classification that would exclude that particular use, but however else, given all the other principles and conditions would satisfy those to the best degree possible.

Mr. Bell stated that staff could do that.

Mr. Craft asked is there is a zoning classification that doesn't allow apartments?

Chair Donnelly stated that if he recalls, LB does not include apartments. He stated that the Board members have the table in their books and when you look at GB and see what's next to it, for those uses.

Ms. Buchanan stated that from what she is hearing, there is no point in them being here on this. They know that Mr. Couch's long-term plan is Mixed-Use, Multi-family and they know that he sent an email requesting that it not

be removed, he would not be okay with that, so if the Board does intend to limit or remove that use, the developer simply would not agree to that.

Mr. Little stated that the County is initiating this and they have to apply some zoning.

Mr. Craft asked if Chair Donnelly is saying staff will recommend a zoning that is not conditional, that would not include apartments since that seems to be a concern for a large majority of the Board. He asked if the property owner would be willing to put a limitation on the number of apartments that could go on the property? Is it too late to do that at this meeting.

Counsel Leslie-Fite responded that it is not too late, but she would like to reference what the options are at this juncture. Pursuant to the Ordinance, reading from Chapter 3 of the Ordinance, "The Planning Board at this juncture, would have four (4) options. 1) Adoption of the rezoning as proposed. 2) Adoption of the rezoning to a zoning district designation of lesser intensity. 3) Denial of the rezoning. 4) Remand of the rezoning application to staff for further consideration." She clarified that she had said "rezoning", but this is an initial zoning and its legal interpretation that this would be applicable. She pointed out that last time, it was remanded as Chair Donnelly alluded to earlier and allow staff to give some additional consideration and bring it back to the Board. She had previously mentioned "Re-Noticing", if the Board does any of these options and they rise to the level of a substantial change, that's where she recommended the re-Noticing, but you could get some sort of consensus or agreement from the owner's representative tonight, but she is suggesting, depending on where they land with that, just for Notice sake, they would want to re-Notice and make sure that all the public is aware of that.

Chair Donnelly stated that if the Board is comfortable where they are at, his inclination at this point would be to bring the developer in with these questions, so they don't have to speculate around what may or may not happen. He asked Mr. Terrellins if he would come up and answer that question.

Mr. Terrell asked if there is a specific question.

Chair Donnelly stated that there were a couple of questions. Two (2) specific questions: 1) For those parcels that are and continue to be under a Conditional Use GB classification, would the developer entertain the exclusion of multi-family development? 2) Would they entertain the change of parcels that are south of Oak Ridge Road, to something AG or something of much lesser intensity as an additional step for zoning, recognizing that there will be future development plans that are coming forward, and that if

the CZ zoning is approved, that will establish that Moderate Commercial presence at that intersection?

Mr. Terrell responded that his question does not apply to the southwest quadrant, what Mr. Craft referred to as the "Martin" parcel, because multi-family is not allowed in O/I and Mr. Couch has agreed to recommend that, and he would be pleased to support that at this stage. It takes multi-family off of that parcel. The second question, are the parcels that are east of 73 and south of 150? He thinks the best way to answer that is that this is not Mr. Couch's petition until Mr. Couch is asked to apply conditions. Up to that point, it's a staff or County-initiated request. Mr. Couch has not authorized him to offer any limitations or restrictions of apartments on any tracts, other than to offer O/I on that southwest quadrant.

Mr. Bell added that the closest thing staff has would be Limited Office or Public and Institutional, and he thinks it would be Limited Office.

Mr. Craft asked if Mr. Couch would entertain Office or Institutional or AG on the parcels at the southeast corner of that intersection?

Mr. Terrell stated that Mr. Couch has not authorized him to accept or propose any conditions. Up to that point it is in the staff's hands. This is a key interchange parcels that should be General Business.

Chair Donnelly stated that if they understand Mr. Terrell's comments, if they were to go to a use that is not conditioned, they don't need the owners authorization for that change because it's not a conditional use.

Mr. Terrell stated that is a question that the Board's attorney should answer. She is nodding her head on that.

Counsel Leslie-Fite stated that she would caution the Board to re-Notice it because it is a change. It was Noticed as CZ-GB and they are considering something that is arguably substantially different. She would caution to Notice it.

Chair Donnelly stated that then based on his understanding of what had been talked about, within their purview as a Board, ultimately, to zone those four (4) parcels AG if they so choose, or O/I if they so choose, as a straight-up zoning. Mr. Bell said L/O. Chair Donnelly stated that they have the option of acting on the motion that is before the Board and it doesn't sound like they have the votes for that to pass tonight. One potential drawback of that is if this gets denied and then there is certainly the opportunity for appeal, but if it gets denied then it would prevent any future requests for development for a year, if he is not mistaken.

Counsel Leslie-Fite stated that is right.

Chair Donnelly stated his inclination would be to remand this back to the staff, rather than setting up a situation like that, where they would be eliminating a development opportunity, again, given clearly there is some recognition that development is there, and so the recommendation for staff would be to look at L/O for all of the parcels in that triangle, and there is mixed data on whether or not that parcel to the left of the highway would be L/O or AG, he has heard both, and then for those parcels that are south of Oak Ridge Road and east of the interstate, the thought of the Board would be AG, but to remand that back to staff for consideration in that manner. What he thinks he is hearing, the Board can't make any conditions and there's not an opportunity for them to act on the CU-GB, without excluding that.

Ms. Buchanan stated that they should be able to move it to lesser intensity without sending it back to staff. Mr. Little pointed out that if it doesn't make substantial changes without re-Noticing.

Counsel Leslie-Fite stated that it's not about the fact that the Board can't do a lesser intensity, again, she noted for the record that there was a mention of some type of Notice that there could be a substantial change, but the thing is, they didn't notify what the substantial change was. So, she would caution to re-Notice and there's no harm in re-Noticing, but that allows transparency of people to know what is going out there, potentially.

Chair Donnelly stated that he would be inclined to allow that to play out because it's currently AG, as the development happens. That would be his inclination for the parcel to the west of it, as well. Again, not presuming any restriction for future development, but given that they are looking at the starting point, that would be his inclination.

Mr. Bell asked if Chair Donnelly meant all eleven (11) parcels to AG, is that what he is hearing?

Chair Donnelly stated no, he thinks all eleven (11) parcels to L/O.

Mr. Bell, asked if he is talking about the parcel that is south of Oak Ridge Road and to the west, the long parcel that looks like a cleaver, that is proposed to be AG, and then the one to the east, the three (3) parcels to the east would stay AG.

Chair Donnelly stated that then the other two (2) small parcels that are also part of that, would be L/O. If they make a motion to remand this, they can articulate this specifically, what their preferences are.

Mr. Little stated that in effect, what they have done, moving this to L/O prevents them from building multi-family apartments without a bigger plan for this Board to review.

Chair Donnelly stated that was correct.

Ms. Buchanan stated that if they simply deny the proposal, it would prevent any sort of development work for a year? They don't want to do that.

Chair Donnelly stated that was also correct. Mr. Craft added that they can come back next month for a rezoning because this is an initial zoning, this property is not being rezoned. They don't have to wait a year.

Chair Donnelly moved to remand this request back to staff with the following recommendations to the Planning Board for consideration at a future meeting. Assign original zoning of LO (Limited Office) to Parcels 149642, 149643, 149688, 149658, 150130, 217566, 149659, and 149662; and AG (Agricultural) to Parcels 149651, 149653, and 149645. This was seconded by Ms. Buchanan. The Board voted, 4-3, in favor of the motion. (Ayes: Bui, Buchanan, Little, Donnelly. Nays: Alston, Drumwright, Craft.)

Reverend Drumwright requested to be excused for the balance of the meeting. The Board voted to excuse Rev. Drumwright unanimously by acclamation.

**C. UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT CASE #24-08-PLBD-00092: AN AMENDMENT TO MODIFY ARTICLE 3 (PERMITS AND PROCEDURES), SECTION 3.5.V TO ADJUST NOTICE AND HEARING REQUIREMENTS AND TERMINOLOGY REGARDING "TEXT AMENDMENTS" AND MAKE A GLOBAL ADJUSTMENT TO TERMINOLOGY USED FOR PUBLIC HEARINGS FOR LEGISLATIVE AND QUASI-JUDICIAL DECISIONS TO ALIGN WITH LANGUAGE ADOPTED UNDER TEXT AMENDMENT CASE #23-06-PLBD-00053 TO MODIFY ASSOCIATED NOTIFICATION REQUIREMENTS.**

Oliver Bass presented the staff report.

Chair Donnelly stated that this is not a policy change but making the whole ordinance consistent with a previous change. Mr. Bass agreed.

Chair Donnelly opened the public meeting for comment and asked if there were any speakers from the public on this matter. As there were none, the public meeting was closed.

Chair Donnelly moved to approve the UDO Text Amendment Case #24-08-PLBD-00092, an amendment to modify Section 3.5.V to adjust the notice

and hearing requirements and terminology as presented by staff. Doing so is consistent with the Guilford County Comprehensive Plan Future Land Use Element—Policy 1.6.2, which states, “Recommend Development Ordinance amendments and Area/Quadrant Plan changes to support and implement regional plans endorsed and adopted by Guilford County.”. This proposal is reasonable and in the public interest because it is consistent with the Guilford County Comprehensive Plan. It is a procedural adjustment to make the entire UDO consistent with previous adjustments made to Sections 3.1 and 3.2 and NCGS 160D, seconded by Mr. Craft. The Board voted unanimously, 6-0-1, in favor of the motion. (Ayes: Donnelly, Little, Buchanan, Craft, Bui, Alston. Nays: None. Absent: Gullick, Stalder. Recused: Drumwright.)

#### **VIII. Other Business**

##### Comprehensive Plan Update

Leslie Bell informed the Board that the Comprehensive Plan’s 30-day public review and comment ended at the end of August. Staff has met with Design Workshop and the consultant currently is reviewing and compiling the comments for review.

#### **IX. Adjourn**

There being no further business before the Board, the meeting adjourned at 9:04 p.m.

*A called special meeting will take place October 2, 2024.*

*The next regular meeting will take place October 9, 2024.*