

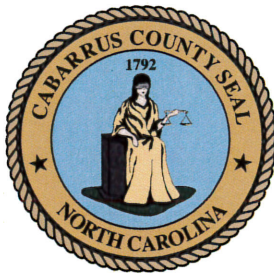


Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
December 12, 2017 @ 7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of November 14, 2017 Planning and Zoning Commission Meeting Minutes
3. Old Business – Planning Board Function:
 - A. Petition RZON2017-00003 – Request for Conditional Rezoning from Countryside Residential (CR) District to Limited Industrial Special Use (LI-SU) District. Applicant is JR Construction & Remodeling, Inc. Property is located at 2670 Cold Springs Rd (PIN: 5559-86-9372). **Request to Withdraw**
4. New Business – Planning Board Function
 - A. Petition RZON2017-00004 - Request for Rezoning from CR to AO, +/- 3 acres. Applicant is JR Construction & Remodeling, Inc. Located at 2670 Cold Springs Rd. (PIN: 5559-86-9372).
5. Old Business – Board of Adjustment:
 - A. Petition VARN2017-00002 – Request for relief from landscape buffers and the required setbacks. Applicant is JR Construction & Remodeling, Inc. The property is located at 2670 Cold Springs Rd (PIN: 5559-86-9372). **Request to Withdraw**
6. New Business – Board of Adjustment:
 - A. Petition CUSE2017-00002 - Request for Conditional Use Permit for Accessory Airstrip. Applicant is Christopher Logan. Located at 8365 Reed Mine Rd (PIN: 566-46-9695). **Request to Table**
 - B. Petition CUSE2017-00003 - Request for Conditional Use Permit for a Public Service Facility (electrical substation). Applicant is UC Synergetic. Located at 4415 Joyner Road (PIN: 5557-20-2855).
7. Directors Report
8. Legal Update
9. Adjourn



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Mr. Chris Pinto, Chair, called the meeting to order at 7:00 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Holly Grimsley, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Richard Price, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood, Jr. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning, Manager, Mr. Jason Earliwine, Sr. Planner, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Ms. Mary Blakeney **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the November 14, 2017, meeting minutes. The Vote was unanimous.

Old Business – Planning Board Function:

The Chair introduced RZON2017-00003 - Request for Conditional Rezoning from Countryside Residential (CR) District to Limited Industrial Special Use (LI-SU) District. The applicant is JR Construction & Remodeling, Inc. The Chair said there is a request to **Withdraw**.

Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Charles Paxton to **Withdraw** RZON2017-00003 – Request for Conditional Rezoning from Countryside Residential (CR) District to Limited Industrial Special Use (LI-SU) District. The Vote was unanimous

New Business – Planning Board Function:

The Chair introduced RZON2017-00004 – Request for Rezoning from CR to AO, +/- 3 acres. Applicant is JR Construction & Remodeling, Inc. Located at 2670 Cold Springs Road (PIN: 5559-86-9372).

Mr. Jason Earliwine, Sr. Planner, addressed the Board and presented the staff report for RZON2017-00004 - Request for Rezoning from CR to AO, +/- 3 acres. Applicant is JR Construction & Remodeling, Inc. Located at 2670 Cold Springs Road (PIN: 5559-86-9372).

The applicant is Virginia Moore and the owner is Jr. Construction and Remodeling and both are here tonight. The existing zoning for the property is CR, Countryside Residential and they are proposing a straight rezoning to AO, Agricultural Open. All uses that are permitted in AO would be permitted on this site if the rezoning is approved.

The property address is 2670 Cold Springs Road and it is +/-3 acres in size. There are currently

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two existing vacant concrete buildings, as the Board can see on the aerial. The surrounding properties to the north are mostly residential. To the south, east and west, it is all vacant or wooded. The surrounding zoning is CR on all sides.

The application states that the subject property will be served by well and septic. If development of the property requires utilities, there are currently no utility providers in that area.

The proposed rezoning to the AO zoning district is consistent with the Eastern Area Land Use Plan. The plan calls for that area to remain open space. Based on tax records, the existing buildings were constructed prior to the adoption of the Ordinance in 1980 or around there. The two existing building on the site do not appear to meet the dimensional standards for CR or AO zoning. They are nonconforming since our Ordinance was adopted in 1980.

This is a conventional rezoning, therefore, all permitted uses in the AO zoning district would be allowed on the subject property. The Planning and Zoning Commission should consider all the information provided and determine if the proposed rezoning is consistent with the Commission's vision for this area of Cabarrus County.

Mr. Earliwine asked if the Board had any questions for him.

The Chair said the only thing he saw was what the Fire Marshal said, that there would be certain restrictions based on the operations of the business. He asked what the square footage was and what the restrictions for a repair garage were. He is just curious more than anything.

Mr. Earliwine reminded the Board that this is a straight rezoning so, we are not really considering the use that the applicant will be proposing. If the Board has specific questions for the Fire Marshal's office, if we come next month for a Variance, we could possibly request the Fire Marshal to attend, to answer any questions the Board may have.

Ms. Virginia Moore, Carlos Moore Architect, PA, 222 Church Street N., Concord NC, addressed the Board. She said she was trying to look up the information for the Chair concerning his question. She said in relation to that, usually what kicks in the sprinklers is 12,000 square feet. That is kind of a rule of thumb that they go by. Both of these buildings are less than that, so we are good in that respect.

Ms. Moore will try to answer any questions the Board may have. As stated, this is not conforming to either zoning district; the AO is more palatable to the Land Use Plan and that existing area. She said just north of that road is where the Land Use Plan bisects Countryside Residential with the AO district. That whole swath on the bottom side of the road is currently in the Land Use Plan as AO. It is pretty well wooded on all sides.

She said previously they were asking for Light Industrial, this is a little bit more palatable with the use of the neighborhood and the Land Use Plan. She is asking for approval on this rezoning.

Mr. Jeff Corley asked what the past use of that facility was.

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Ms. Moore said it has always been a fabrication mill; it has always had an industrial use. It has been vacant for the past +/- 8 years and the power was turned off during that time as well.

Mr. Pinto asked if there was anyone in there now.

Ms. Moore is not entirely certain. She knows they are trying to do some cleaning up.

Mr. Paxton asked what the intended use is.

Ms. Moore said everything permitted in AO is what they are asking for; a straight rezoning, even though we will not be doing all that.

The Chair opened the Public Hearing.

Mr. Steve Ruggles, 401 Dakota Street, Kannapolis, NC, addressed the Board. He is asking for the AO rezoning for this property. There are two buildings that are vacant and have sat there for a long time. They are deteriorating quite fast and he wants to come in and repurpose the buildings and actually use them. If he can get the rezoning and the stuff that he needs. There are some buffer yards that are going to be required across the front, which will almost completely mask this whole thing from the street. He will paint the buildings and really kind of take something that is an eyesore he believes in the community and do something with them.

His mother lives out in the area and he drives by them all time and has been driving by for about three years. He has been working on purchasing them for the last three years so that he could do something with them and now he owns them; his company owns them. We are trying to get the rezoning so that we can actually bring the neighborhood up and get rid of these derelict buildings that are an eye sore to the area.

The Chair asked Mr. Ruggles what he was going to use the buildings for.

Mr. Ruggles said he is looking to put an automotive garage in the middle building. He said his son races cars and they do a lot of stuff with cars and we need a larger shop than they have now. This has been on their radar for the past three years, trying to figure out a way to purchase this and to be able to do this.

He said the side building they are looking at doing a contractor shop in it.

The Chair said lease it out?

Mr. Ruggles said yeah, pretty much like lease it out. He also runs a construction company and he may keep some stuff in those buildings; use it for that and the race shop.

Ms. Sue Furr, 2671 Cold Springs Road, E., Concord, NC, addressed the Board. She lives right in front of the building. She has had to come before to fight to keep heavy stuff out of there; this is her second time. She has nothing against Mr. Ruggles, he is a nice gentleman.

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But, like tonight when it is cold and everything, you want to be in your cozy home. But she would like to be in it cozy and quiet.

Ms. Furr said in one of the buildings there is a business called Get Air Done that is already there and it has been there for a couple of weeks or months.

She said from the beginning of time people have had to fight for their homes and she feels like she has had to fight for hers. We are retired and would just like to have some peace and quiet and not have to fight all this traffic. There are school buses and kids at Land Drive, right beside her house, that get on and off every day. She does not think they need more traffic there.

Mr. Wise asked Ms. Furr what kind of business she said was in there now.

Ms. Furr said Get Air Done, an air conditioning company; it has been there. She wishes their little neighborhood could remain residential.

Mr. Ruggles said earlier he said race shop. He calls it a race shop but if you look under your definition it does not fit what we are doing. It is not really a race shop, it is more of a hobby thing; that is just his wording for it. He is not looking to put in like a Hendricks Motorsports out there. He just wanted to clarify that.

He said Get Air Done are buddies of his that have helped him clean out the buildings, because they were completely packed full of stuff when he purchased them. He told them for helping him clean things up they could store a couple of things there. There is no operating business out of that building at this point. They do not operate out of there, they are just storing some of their stuff. They park their truck out there once in a while, but they are not an operating a business out of that building.

The Chair asked Mr. Ruggles if he would not be operating at night.

Mr. Ruggles has no intention of operating at night. He lives in a neighborhood too and he would not want someone over their banging on something all hours of the night doing something like that. He has no intention of operating anything probably after seven or eight o'clock or maybe nine o'clock one night if we get home late from the race track one night and if we have to pull in there and unload the car; other than that no, he will not be out there operating in the late hours.

Ms. Blakeney said are you saying you will use this for storage for your cars or etc.?

Mr. Ruggles said yeah, his son's cars will probably be stored there; a trailer may be stored there and some of the equipment that we use for racing and or some regular automotive type repair stuff because that kind of goes along the line of what they are doing.

Mr. Paxton said the noise level when you are repairing these race cars will be minimum, maximum; what will be the noise level?

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Mr. Ruggles said minimum to none. Right now, the small building we are using in Kannapolis is right across the street from a Church. They absolutely love him and his son. We are very respectful to them. On Church days we do not ever fire up the cars and drive them in and out or move anything or do anything loud on Church days because we are very respectful to them. They are just as happy as can be that we could be over there and he and son can do this business and race together.

He is not a professional and he has not taken a db meter out there, but he would say the traffic riding down that road is going to be louder than we ever will be.

The Chair opened the floor for discussion.

Mr. Corley said his concern is with almost every straight rezoning that we have, is that the rezoning will go with the property. If that owner chooses to sell tomorrow, we have just decided the additional uses those residents would be exposed too. His personal preference with this area so close to homes as well as surrounded by zoning that is consistent with the way the property is currently zoned; he does not know that his comfort level with a straight rezoning is where it needs to be.

Ms. Blakeney agrees with what Mr. Corley says.

Mr. Dagenhart agrees with Mr. Corley. He would feel a lot more comfortable if we had a conditional rezoning as opposed to a straight rezoning.

Mr. Paxton said the question now becomes is the applicant prepared to have a condition placed on the rezoning.

Mr. Dagenhart said we cannot put a condition on a straight rezoning.

Mr. Koch said that is correct; it is a straight rezoning, there can be no conditions.

Mr. Dagenhart said the applicant would have to submit a conditional use; which they previously had if he is correct.

Ms. Morris said they did but it was for a light industrial zoning district. What they are asking for this evening is actually a down zoning to the AO. If the Board is not comfortable with a straight rezoning to the AO with the limited uses that are allowed in the AO district, which she believes the Board has a copy of in their packet so that you know what type of uses it is. It does not nearly include the type of uses that were in the light industrial that they were requesting. She said AO is one of our residential districts but it does allow some limited businesses in that district.

She thinks that at this point, if the Board does not see fit to approve a straight rezoning, before you just completely turn it down, you may want to have a conversation with the applicant about whether or not they are willing to do that or if they want it to be voted up or down this evening.

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Mr. Price said he agrees with Ms. Morris's assessment.

Mr. Wise is curious as to what type of fabrication was going there in the past; was it heavy traffic in that area at that time?

Ms. Moore said it was pipe filters and hoses from what she understands.

Mr. Wise said pretty quiet work inside of a manufacturing type facility.

Ms. Moore said it is a block building.

Mr. Wise said so pretty insulated.

Mr. Ruggles said according to the neighbors he talked to over there, it was very noisy because they had compressors and blowers mounted outside of the buildings and it ran 24/7. He has talked to a lot of the neighbors around there and told them what he was planning to do, and in his opinion, their biggest complaint was the noise. But you have to consider they had the large compressors running air through these buildings and blowers moving air because there was a lot of sowing of these pipes. He does not understand the whole system of how it worked but he knows there are still remnants of these old blowers hanging off the side of the building where the compressors were and again from what the neighbors told him that is what they do not want. They do not want this stuff running 24/7 out there. He does not plan on having any compressors outdoors or blowers or anything like that; he does not need anything like that.

Ms. Moore said this is the Land Use Map (she showed the map) that you all have adopted that we go by. She showed the area they are talking about and said it is in AO Agricultural Open Space. What we are requesting fits the land use map and she is asking that the Board follow the land use map. She will speak with Mr. Ruggles and see if he is open to the conditional rezoning and eliminating some uses. She feels like we would be because we will not be using everything on that list anyway.

The Chair said you probably can't either because you do not have the utilities.

Ms. Moore said it is well and septic and if you read Mr. Troutman's assessment, it was a thesis abstract on septic and linear footage of drainage pipe. The last couple of sentences said pretty much that he does not have a dog in the fight and if it works it works. She said we are going to roll on with that assessment.

The Chair thinks the Board owes them a vote one way or the other.

Ms. Moore asked the Chair to allow her to talk with the owner for a minute. She does not know what the temperature of the Board is either.

Mr. Corley said even if this was approved they would have to come back for a Variance to address that.

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Mr. Earliwine said they originally applied for a rezoning for LI Special Use and that is what was withdrawn tonight. They do have a plan in mind and they do have to meet the Ordinance as far as landscaping, side setbacks and the buffers. So, we already do have the application and the plan for the Variance. Tonight we had to do the straight rezoning, again down grading to AO, but they do have a plan to utilize those buildings.

He cannot really talk about what is in the variance packet yet because it is not on the table yet. If the Board does approve this, we will be back next month with the variance and we are requesting significant buffer, street yard and all of that.

Ms. Morris said as Mr. Earliwine stated in the staff report, this is a nonconforming site. So, for any type of occupancy, they have to correct the nonconforming status. Most likely, it will end up back before the Board and they would have to propose the strictest, out of what they envision to potentially be there, they will have to apply whatever the strictest standards are for that to have the site come into compliance.

They are asking for a straight rezoning this evening. We can tell you that they are nonconforming buildings, so most likely, you will see it back at some point before anybody occupies the buildings and could address specific use at that time, but cannot restrict use at that time.

Mr. Dagenhart said if we straight rezone it there is nothing to stop him from demoing the site and coming in with any of these approved uses for AO.

Ms. Morris said that is correct.

The Chair said that is the way it is with everything though.

The Chair asked if there was a Motion.

There being no further comments Mr. Richard Price, **MOTIONED, SECONDED** by James Litaker to **APPROVE**, RZON2017-00004 – Request for Rezoning from CR to AO, +/- 3 acres. Applicant is JR Construction & Remodeling, Inc. Located at 2670 Cold Springs Road (PIN: 5559-86-9372). The vote was 7 to 2 to **APPROVE** with Mr. Adam Dagenhart and Mr. Charles Paxton opposed.

The Chair said the Board needs to create a consistency statement.

Mr. Jeff Corley said this rezoning does meet the intent of the Eastern Area Land Use Plan

The Chair said the rezoning is not detrimental to the character of the area since the buildings are at least 38 years old and have been part of the community for at least 38 years. At least since 1980; we are not sure how far back it goes. It could have been built in the 60s.

It will also give the property owner a chance to make his property better and everybody has that opportunity with their own land. It existed before the County had zoning.

Mr. Corley said the land uses allowed in the proposed district, that the infrastructure appears to be sufficient to satisfy those uses.

The Chair agrees and does not think there are utilities there to really do anything drastic.

Consistency Statement:

The proposed rezoning is consistent with the provisions of the Eastern Area Land Use Plan and is reasonable and in the Public interest based on the following specific findings:

There is AO zoning in the vicinity although not immediately adjacent to this property. In the AO zoning there are a number of non-residential, non-agricultural uses allowed by right and per standards, that this actually constitutes a down zoning of this property rather than an up zoning, that there are existing buildings on the property that were constructed prior to there being any zoning in that area, which are not presently in use, which allows an opportunity to make these existing buildings productive.

There being no further comments Mr. Brent Rocket **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the consistency statement. The vote was unanimous.

Mr. Earliwine said the next item on the agenda is a request to withdraw VARN2017-00002, JR Construction & Remodeling, Inc.

He said as follow up from the November 14, 2017, Planning and Zoning Commission meeting, JR Construction and Remodeling is formally requesting withdrawal of the application that was submitted for a variance for property located at 2670 Cold Spring Road.

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Brent Rocket to **WITHDRAW** the application for VARN2017-00002, JR Construction and Remodeling. The vote was unanimous.

Mr. Jason Earliwine said we have a request to **Table** Petition CUSE2017-00002 – Request for Conditional Use Permit for Accessory Airstrip. Applicant is Christopher Logan. The property is located at 8365 Reed Mine Road; PIN#566-46-9695

Christopher Logan submitted an application for a conditional use permit requesting an accessory airstrip. The FAA report that the applicant submitted with the application has since expired and staff asked the applicant for an updated report. The applicant therefore asked for more time to complete the application packet. The applicant plans to come back next month.

There being no further comments, Mr. Adam Dagenhart, **MOTIONED, SECONDED** by Mr. James Litaker to **TABLE** Petition CUSE2017-00002, Request for Conditional Use Permit for

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Accessory Airstrip. Applicant is Christopher Logan. The property is located at 8365 Reed Mine Road; PIN#566-46-9695, until next month.

The Chair asked that anyone wishing to speak for the following Board of Adjustment case or to testify during the public hearings must be sworn in. Please stand and raise your right hand if you are going to speak on this case.

The Chair administered the Oath.

Mr. Phillip Collins, Sr. Planner, addressed the Board presenting the staff report for CUSE2017-00003- Request for Conditional Use Permit for a Public Service Facility. Applicant is UC Synergetic. Located at 4415 Joyner Road (PIN: 5557-20-2855)

Mr. Collins said the applicant for this request is UC Synergetic and the owner of the subject property is Union Electric Membership. The purpose of this request is to develop the subject property with a public service facility, an electrical substation, which is permitted with the issuance of a conditional use permit in the Agricultural Open Space zoning district.

The subject property is approximately 15.84 acres in size and the site is currently occupied by and existing electrical substation.

The applicant is proposing to construct an electrical substation on the site that is larger than the existing electrical substation. The existing substation will remain in service during the construction process and will be removed when the larger substation is completed. The purpose of this improvement is to accommodate increased demand caused by growth in the area.

The subject property is zoned AO and surrounded by AO and CR zoned properties

The applicant has provided documentation compliant with Section 8-3 of the Cabarrus County Zoning Ordinance, petitioning for a Conditional Use.

The applicant has submitted a complete application which includes the "Findings of Fact" sheet, along with a site plan showing the location of construction on the subject property.

Mr. Collins thinks it is the fifth bullet point in the staff report that mentioned about the intermittent stream. He wants to point out that intermittent streams are no longer required to have buffers, because that was changed in some text amendments that were done in October he believes; so that is no longer required. The subject property is located within the boundaries of the Central Area Plan and is designated as rural residential

Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.

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1. A granting order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
2. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
3. Expansion of this project, as well as modifications, or changes to the approved site plan must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
4. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance, or qualify for waiver, the applicant agrees to install the buffer as required by the Ordinance.
5. Soil and Erosion control measures shall comply with Federal and State water quality laws, regulations and rules.
6. The project is subject to design standards as outlined in Stormwater Permit #SW3171001.
7. Deed Restrictions as outlined in the Stormwater Permit Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation.
8. Modifications to the plan as submitted must be reviewed and approved by NCDENR.
9. The project is subject to the design standards as outlined in Driveway Permit.

Mr. Collins would be happy to answer any questions the Board may have.

There being no questions for Mr. Collins, the Chair called on the applicant to make his presentation.

Mr. Nathan Bass, Manager, Facilities Planning and Siting Department at UC Synergetic, 123 N. White Street, Fort Mill SC addressed the Board.

Today, they are representing Union Power on behalf of this project. Union Power Cooperative currently serves the southeastern portion of Cabarrus County from three substations; the Rocky River Substation on Lower Rocky River Road, the Mt. Pleasant substation in Mt. Pleasant and the Flowes Store substation which is on this site.

The electric transmission lines that serve each of these three substations passes through the Flowes Store substation site and this substation, due to its age and limited electrical capacity, is becoming obsolete. Union Power has determined that the existing Flowes Store substation, which was built in 1957, needs to be replaced by a modern facility that can adequately support growth within Cabarrus County, now and into the future. With that said, Union Power plans to

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construct a new electrical substation immediately behind the existing substation on Joyner Road. Once the new station is in service, the existing station will be decommissioned and removed from the property.

We believe that the project will not have any negative impacts on the area because it is built on the existing substation site. We actually believe the new substation will actually improve the visual quality of the area. The existing substation, while it is smaller in size, it sits adjacent to the road in full view with no screening. The new station will be constructed almost 300 feet off the road. Furthermore, in addition to retaining tree cover along much of the sights perimeter, Union Power is proposing to supplement that with over 400 additional plants along the road to enhance the screening of the substation. We believe in five to ten years, the continued growth of the plant material will render the substation virtually unrecognizable from adjacent properties and the road, which we believe will be a visual improvement to the area.

The new station will have no impacts to streams, stream buffers, wetlands, rare species, flood plains, historic resources, airports or any other potentially sensitive resources in the area.

Union Power has taken significant steps to protect the health, safety and welfare of the community and therefore respectfully request approval to construct the new facility on site.

The Chair asked if they were tied into the Solar Farm.

Mr. Bass is not aware of them tying into that. He said this is a standalone project.

The Chair said it is the Flowes Store Road, not the Joyner Road substation?

Mr. Bass said that is correct. The existing Flowes Store Substation is the smaller substation built in 1957 and we are going to replace that with the new Flowes Store Substation.

The Chair said on the left hand side in the curve?

Mr. Bass said yes.

Mr. Wise said it looks good to him, looks better than what is on the pictures he sees here; it is all nice and neat and further off the road.

Mr. Bass said that was the intent, to put it off the road; better for the area.

Mr. Bass said we have Mr. Joe Irvin, Professional Engineer, Mr. Averitt Tinsley, Landscape Architect and Mr. Matt Baucom and Mr. Wayne Hathcock from Union Power Cooperative if there are any questions that need to be answered on these specific items.

The Chair asked if there was anyone speaking in opposition of this request.

Mr. Dan Haller, 4301 Joyner Road, Concord, NC, addressed the Board stating that he owns the

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property next to the site on the left; on the west side. He is really not in opposition, just concerned. He asked if the substation expansion is going to be to the left of the current one. You said it was sort of behind, will it creep to the west at all?

Mr. Bass showed where the existing substation is located on the map and stated that they plan to simply push that further back into the property. He showed where the cleared area is out there now.

Mr. Haller said that is significantly bigger.

Mr. Bass said yes, it is a larger substation.

Mr. Haller asked what kind of elevation of plant materials they will be planting. His concern is that they are relatively shrouded now, but that we are going to look out and are going to see an enormously tall, much much bigger substation when we look out of our window and when we are outside; is that right?

Mr. Bass does not believe so. He thinks this entire area (he showed on the map) is going to continue to mature and grow and from the road perspective this entire area (he showed on the map) is going to be filled with vegetation along the road. We are going to install red cedars, oaks and wax myrtles. He said similar to the Mt. Pleasant Substation, which has continued to mature and grow and has become less and less visible.

Mr. Haller said the planting then will only be on the front side?

Mr. Bass said there will be plantings on the front and we are supplementing on this back side (he showed on the map). This entire area, the triangular portion next to our parcel, is forested at this time.

Mr. Haller asked if there were any reports that he could look at, of any potential health and safety concerns, of something putting out high wattage. They home school their four children, almost five and being home all the time with them we want to make sure there is not any hazard to their health with a much larger, bigger substation that is pumping out high wattage.

Mr. Bass said absolutely, we would be happy to provide the Board with the number of studies that have been prepared by the National Academy of Sciences. The gist of that is he is not an Electrical Engineer, he is a Landscape Architect, but the summarization of that is that ambient electromagnetic field that is on the edge of the property is going to be ambient. He would be happy to provide Mr. Haller with a number of studies.

We have a number of community workshops that we have for new transmission lines and substations. Within those community workshops, for ones that we are siting in new areas, we do have EMF and a safety station and we have a plethora of information that we can provide.

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We do not claim to make a determination one way or the other, we just provide the data and let the property owner determine.

Mr. Haller said it is obviously going in there, there is no denying that, he just wants to make sure that from the visibility stand point and the health stand point that all T's are crossed and all I's are dotted and he is sure they will be.

Mr. Corley said to the applicant, this is a unique situation where you only have one neighbor to really worry about, he hopes that they have heard his concerns and continue to work with him as much as they can through the process.

Mr. Dagenhart said looking at the landscape plan, down there in the southwest corner, down near Bufferyard 1, are you proposing plantings there? It is clouded there and he cannot understand the Table.

Mr. Averitt Tinsley, UCS, 123 N. White Street, Fort Mill, SC addressed the Board. He said the plant material is in there, but because of the stringent nature of the buffer yard requirements and the zoning requirements, there is so much plant material it is almost on top of each other.

He said buffer yard 1 will have 8 wax myrtles and 27 grasses in that area, which is taking into account the drainage ditch that will be between the road and the adjoining property, but still providing screening there.

He said to address a little bit more of your concerns, there is a 60 foot easement, but there is a 75 foot buffer yard requirement coming off of the property line that is undevelopable anyway. The rest of this portion (he showed on the aerial) is being preserved and cannot be developed anyway.

He said the way the property was purchased, there is a 60 foot access easement to the property behind us. He said in the future, that could have a drive there. It is already granted in the Deed.

Mr. Dagenhart said in the area that he is asking about, are they asking for a variance on the buffer width, landscape buffer?

Mr. Collins said there is no variances being asked for. It is just where the driveway enters the property.

Mr. Dagenhart said in the required buffer it says 75 feet, but when he pans over there, that is not 75 feet. The driveway is in part of that 75 feet. Are they going well above their landscape requirements to make that up?

Mr. Collins said yes, they are providing the correct numbers.

Mr. Dagenhart said in others words it is more intense than is required?

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Mr. Collins said no, he thinks they are proposing what is required.

Mr. Corley said we have a 75 foot buffer, but 60 feet of that is an access easement, that at any time could be gone; is that fair to say?

Mr. Tinsley said we were showing what is required, if you see this slice right here (he showed on the map) that is the proposed location of the transmission line. Outside of that right way, we are not planning to maintain that; the idea is for that to re-vegetate. He thinks we would be happy with adding to that buffer in this area right here if you would like to. It is already built into the plan to let that become successional growth and reforest in that area.

Mr. Dagenhart asked if it were possible to put that drive in those transmission lines and to give us more buffer back.

Mr. Tinsley said it is not.

Mr. Dagenhart said to him you are reducing buffer, if it is 75 feet and you only have 30 feet shown.

Ms. Morris believes that the gentleman that owns the property in the back is here if there are questions about the access easement. But, it is intended to provide access to the property to the rear. It is a larger track and the 60 foot right of way indicates to a staff person that it is set up so that at some point it could be subdivided.

Mr. Tinsley said their reasoning for doing that was so that in the future there would not be two driveway access points off of Joyner Road. We are decommissioning the driveway that goes to the existing station when that station goes away. We have an access gate that keeps people from going on to the property. The substation allows future expansion, if that easement was used, so it only has one driveway access point off of Joyner Road.

Mr. Corley said if we asked you for a full 75 foot buffer from the edge of that access easement in that area, would that be doable?

Mr. Tinsley said as long as it is anywhere that it is not coming into the transmission line right of way. The part that is shaded in, we are providing that.

Mr. Corley's concern is that we have good protection now, but if somebody comes in and clears that road to access their property, we are going to lose almost all of that if we do not protect that additional.

Mr. Dagenhart said if the road was in the right of way for the transmission lines, is that a logistic issue; as far as an operational stand point?

Mr. Tinsley said two things; one that would put two driveways very close together.

Mr. Dagenhart said the simple solution to him would be that if that 60 foot right of way was ever developed, then your drive would come off of that as opposed to Joyner Road.

Mr. Tinsley said he is asking about putting a drive under the transmission line.

Mr. Bass said it is basically a standard for any electrical utility to not have a drive enter underneath an electrical transmission line. If that is your only access easement and you have to bring large equipment in there, the last thing you want to do is have it coming in directly under a line. It is basically an electrical standard.

Mr. Dagenhart said it goes back to why this should be a variance request on that landscape buffer. He understands what you are trying to do with the drive, but you cut the landscape buffer in half.

Mr. Bass said the access easement traverses the entirety of the property north and south. The transmission line as shown is there now. Let's assume that the property owner behind, decides to clear the entire 60 foot easement. We still have the existing transmission line there, there really is no difference at the end of the day; assuming worst case scenario. We do not plan on clearing.

Mr. Dagenhart said but there is a difference. You are putting in a large substation compared to a small one now.

Mr. Bass said we are going to have significant amount of screening in between that house from the line of site across from here to here (he showed on the map), where the house is located will be a significant amount of screening in that area.

Mr. Dagenhart asked Mr. Collins to put up a diagram that he marked so that everyone could see it. He said the blue line is the 75 foot buffer that is required. The yellow or green is your entrance, the pink is what you are proposing for landscaping; that is less than half.

Mr. Tinsley said the requirement for the planting has to be within that 75 foot buffer. It does not have to take up the entire 75 foot buffer, which is over in this portion (he showed on the diagram), because we have the transmission line right of way. We still put the satisfactory requirement in there, but it is in a smaller area so, it does not have to take up the full 75 feet.

Mr. Dagenhart said what is the likelihood of taking 50 pounds of flour and putting it in a 10 pound bag? You are trying to cram landscaping, that is not going to live, because it is not going to be healthy.

Mr. Tinsley said that is why the plant material that was selected was for this purpose. The wax myrtles are incredible hardy, the grasses for the shrubs are incredible hardy also and the wax myrtles create a very thick thatch around 30 feet in height and pretty impenetrable. They are not like a holly, where they are going to hurt you to walk through them, but you are not going to be able to see through them.

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Mr. Dagenhart said it is not only that, the issue is that you have a 60 foot driveway, you got your transmission lines and you have he guesses 150 feet that is unobstructed.

Mr. Bass said to take a step back, their rationale for putting the access easement in that area is because there is already an easement there and we had to make the assumption that at some point it would be cleared. There is an existing transmission line that is already cleared as well. With those in mind, if we put a secondary entrance somewhere on the property that would just be less screening from the road and other adjacent properties as well.

Mr. Dagenhart asked how many acres is the property in the rear. He said inconceivably he could put a subdivision right there, but you are saying you cannot take access off that road if it were ever built in the future?

Mr. Bass is not sure he follows the question. He is sure he could.

Mr. Collins said he is saying if it was built to public standards, the thought would be that your drive way would come off of that. It basically is taking the place of the driveway, so that if it were ever developed in the future your driveway would basically be starting here, as opposed to down here (shows on diagram).

Mr. Bass said, could that be a possibility; absolutely.

Mr. Corley said if there is a tree save area shown on the site plan, that is enforceable by which they could not just go in there after the facility is done. They would have to submit another, some sort of site plan to impact that tree save area?

Mr. Collins said yes.

Mr. Corley said then he thinks he is good with that back spot. He thinks there is enough protection there if that is enforceable.

Mr. Haller said could there not be additional buffering along here (shown on diagram). Why do it up here and up here when the substation will still be visible from over here if you have a big gap here where there is no tree cover. Those trees that are in there now are may be ten feet tall. They are going to take an awful long time to get to a point where that huge substation is not visible.

Mr. Bass said we can absolutely landscape that area. If we re-cleared and landscaped it, but the plants that we put in would take far longer to mature than the volunteer growth that is out there, he can assure you. There is a lot of mature poplar and maple trees out there, they are the fastest growing trees out there. This site was completely cleared five years ago and it is already ten feet high. Another five years they will be 20 foot tall. If we cut that existing vegetation down to re-landscape an additional buffer area, we would just be reducing ten years of growth effectively. Our intent for the site was to do as minimum impact as we could to retain as much volunteer vegetation as possible.

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The Chair asked how tall the substation is

He said the substation is generally about 60 feet tall.

Mr. Dagenhart asked if it is possible to flip the road to the other side of the transmission line; in other words taking it East. So, that at least until the adjacent property owner in the rear develops his; at least we would have a full buffer or at least 60 feet. You stated earlier that you do not typically access underneath transmissions lines, so if you flip it to the other side.

Mr. Tinsley said down the road you could potentially have the transmission right of way, the future driveway going to the property behind us, plus our driveway, therefore just continuing to add what we are taking away.

Mr. Dagenhart said however, if the rear property owner does any development of a public street he is going to have street yard and will have to do some plantings himself to help put some buffer there.

Mr. Tinsley said then we would be back to the buffer that is here already. What we did was try to plan for the future so that this growth has plenty of time to continue to fill in and then also we would be taking care of this area by the time that somebody were to do something down the road, if ever; he has no idea. Then this should be established and we still have our access from however that 60 foot easement is used in the future, but we have already taken care of our responsibility of trying to continue to let this grow.

Mr. Dagenhart said you have taken care of your responsibility for a potential future, not current.

Mr. Tinsley said true. Right now, we have the full 60 feet that is continuing to be vegetated and we are trying to prepare if a road were cut through there.

Mr. Dagenhart still does not understand how Mr. Tinsley can say the full 60 feet is vegetated. He said you have a road through there that is not vegetated. When did gravel become vegetation?

Mr. Tinsley said you are correct. He said right here (he showed on the diagram) there is a proposed road and that is why that is vegetation to meet the standard.

He understands what Mr. Dagenhart is saying. To play devil's advocate, to get back, we could end up having that entire area cleared which then allows more site lines into the station whereas right now we are allowing this to grow in, we are allowing all of this to grow in, we are having one driveway on to this property which was part of the agreement with NCDOT that were going to get rid of the driveway that is existing and go down to just one driveway instead of having two.

Mr. Dagenhart does not think that NCDOT would balk about shifting that driveway over 100 feet; you are not an everyday use.

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Mr. Tinsley does not think that they would balk, we would just have to go to the other side of the transmission line. Then we have the issue of having other people on Union Powers property, which becomes a larger issue. Right now if someone was to access the property they are not coming on to Union Power's property.

Mr. Dagenhart is not asking for anybody else to access the property. He understands that if you move the driveway to the other side of the transmission there is still a possibility that that 60 foot right of way or easement could be cleared in the future. He understands that, but that is a big what if.

Mr. Haller said where do these larger, taller, power lines ultimately lead? He asked if those were power lines on the diagram.

Mr. Tinsley said yes.

Mr. Haller asked if they would cut in front of his house; he is thinking the smaller lines that are up there now would those stay?

Mr. Tinsley said they do. Where there is the large line that crosses through, that is the same area coming through that same right of way. He said the right away that is here is existing also. The pole locations may vary a little bit, but the way this cuts down, this parcel is going to stay the same.

Mr. Koch recommends that the Chair, because he has the power to do it, call for a five minutes recess and allow this applicant to have a discussion about some of the issues that have been raised by the Commission.

The Chair called for a five minute recess. The meeting was resumed.

Mr. Bass said this is an older iteration of the plan that we have. It came to our attention today that we cannot be within the 60 foot access easement for our 75 foot buffer. We were under the impression that we could (he apologized for that).

In our old iteration, you can see we have the 75 foot buffer outside the easement. We can go back to that with no problem. It does not change the plans at all. The 75 foot buffer yard would project into an existing transmission line easement, which is cleared. We cannot change that because the line is already there. What if we moved that 75 foot on the interior portion of the property over to another area (he showed on diagram)? This area would stay as is, we are just making a full 75 foot buffer on the site.

Mr. Dagenhart said you are saying the road would stay where you are showing it; where is your road going to go?

Mr. Bass said the road we propose would stay in that location for long term use because it is technically an access easement; it could be cleared at any given time.

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He said if we cannot use the 60 foot easement for landscaping, we cannot have it within the transmission line easement and we are going to be pushing all the access and the buffer yard over into here (he showed on the diagram), which can be done but then your line of sight is directly into the station. This is what we were trying to avoid with this sweeping road in, so you would not have a direct line of sight into the substation.

Mr. Dagenhart said what if you plant it between that 60 and 75 and you moved the road and still did the buffer 60 feet on the other side.

Mr. Bass said plant it in here (showed on the diagram)? He said that is within the easement.

Mr. Dagenhart said you are not required to put your road in that easement.

Mr. Bass said it is a transmission easement and we have to have clearance for those conductors.

Mr. Dagenhart said you have 75 feet buffer from the property line. There is a 60 foot easement that follows the edge of the property line. Your transmission line is how far off the property line?

Mr. Bass said the edge of easement is about 68 to 70 feet. He said they could have very easily have done that with the access road. We could very easily take the road straight in like that, but then you would have a complete line of sight to the substation from the road. We generally try to avoid that like what we did with the recent Mount Pleasant Substation on Mount Pleasant Road. We had sweeping road that went in and that was intentional to avoid direct lines of sight into the station.

He said currently, the property owner has a significant amount of screening in this area already, so it is not like his house is sitting right there. There is already mature vegetation in that area.

Mr. Dagenhart asked Ms. Morris if this is now a variance request or should it be a variance request.

Ms. Morris thinks we will need to defer to legal because at this point, the driveway is located in what should be the landscape buffer. It is inside the 60 foot right of way but now in what would be the landscape buffer if they are moving it down.

She said typically, to negotiate things out like landscape buffers and placement that would be considered a variance. When we were doing the review on this the access easement was shown on the plan, but at some point it will be developed, so in some places there were only the 25 feet but they do have the transmission line.

If it is the Board's pleasure that they come back and request a variance, she thinks that is an option if they can accommodate it based on working around the easement. We were talking about that and they cannot really move the transmission lines to accommodate landscape. So, those could be presented as a variance if that is the Board's pleasure.

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Again, we missed that, in that it could be eventually that 60 foot right of way that the entire thing could be developed. She apologized for that. But yes, typically, you would see request like this as a variance, not negotiated out as a part of a conditional use permit.

Mr. Dagenhart would still feel more comfortable if the buffer was there knowing that it could potentially be removed in the future and your access road relocated to the other side of the transmission. That is his personal opinion.

Ms. Morris said the Board could potentially table this case this evening, instead of voting it down, if that is where it is headed. Like the last case, that would be the applicants call though, as far as if they need some kind of an answer this evening. She does not think we are going to come to a resolution this evening because there are too many moving parts, as far as what goes where and it might be difficult to articulate.

Again, Mr. Koch can chime in from the legal side if it does need to be treated as a variance.

Mr. Koch does not see how you can have the buffer to the east of the driveway and consider it a buffer. That is not the intent of where those should typically go. Typically, to provide that kind of natural separation from the adjacent property owner and that would not really be achieved in any meaningful way by having the 60 foot right of way, then the driveway and then the buffer on the other side of it. He thinks to do it that way it seems to him that it would have to be considered a variance and that type of variance does not really seem to make much sense here. It certainly could be something the Board could approve. It would make more sense to do the 75 feet off the property line in some meaningful way that accommodates the needs of the adjacent property owner.

He said this is an unusual situation where you have a 60 foot right of way, which as far as he can tell from looking at what is in the file, is in its natural state. He does not know if it is being used or not. We have not heard anything about that, but it appears to be in its natural state. So for all intents and purposes right now, it looks like it provides a buffer, but it may not in the future. He thinks that is part of what Mr. Dagenhart's concern was, aside from the fact that the driveway is closer than 75 feet to the side property line.

What we do not want to do is create any problems later on down the road for anybody else. This would typically be the type of conditional use that would be approved. He does not think we have ever turned down a public service conditional use in this County. We always try to figure out a way to deal with some of the unique issues on a property and this would seem to him to be no different.

He thinks the applicant needs to decide what they want to do tonight, based on the application that has been submitted or maybe some modification that they have come up with on the fly that they think satisfies the Ordinance. If they want to have it voted up or down tonight that is certainly their prerogative. As a conditional use it is a majority vote, it is not a high vote like a variance.

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They certainly have that option or they can request that the Commission table it until next month to maybe figure this out, in such a way that it does not create any concerns or objections in the minds of any of the Commissioners. He said whether that means coupling it with some sort of variance application or some sort of reconfiguration, he does not know; that is really up to them. He thinks we have a bit of a dilemma here right now as he sees it.

Ms. Morris said if the Board would prefer for it be handled as a variance case, staff will work with the applicant so that they can go ahead and submit for the January meeting.

The Chair said we have heard from Mr. Dagenhart and Mr. Corley, let's hear from the other Board members.

Mr. Charles Paxton said you were speaking with the adjoining property owner, he assumes he is aware of the conversations. Is he in agreement?

Mr. Bass said he is not sure if he is in agreement or not. We were just conversing on different options that would allow him to retain as much screening as we could while still having the access road in either location.

He said it really does not make any difference to Union Power which side it is on. We are just trying to minimize the amount of cleared area in perpetuity. Our fear was if we moved the access road on the other side of the transmission line, that is perfectly fine, but it is just going to create a third potential cleared area for as long as the project is out there.

The easiest design for us would be to drive directly into the substation with no curves because we have very large equipment that have to deliver these transformers. But, we consider the communities interest at hand when we do these projects, so similar to Mount Pleasant we tried to sweep this road in so we would have a large vast area of plantings and volunteer vegetation in front of the station; that was basically our intent.

Mr. Koch said let me word this a slightly different way because he may have confused Mr. Bass by what he is saying. You are either going to have to move that driveway out of the 75 foot buffer or they really cannot approve it. So, you have to decide tonight, that you are either going to move it over or you are going to have to ask to have it tabled and do something else. Because otherwise, you have a problem that you cannot solve. He said your intentions were pure and good in this, no question about that; nobody is arguing that, but they cannot consider it on that basis.

Mr. Bass said they were discussing with Ms. Morris on that specifically. Ms. Morris informed us that we cannot have the driveway in the 75 foot buffer. Therefore, the 75 foot buffer has to move off the 60 foot easement. If that is the case and he believes it is based on the new information we received today, then our driveway would not be within the 75 foot buffer, it would be crossing it.

Mr. Dagenhart said you cannot ask for a buffer on the west side of your property to count on the

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east side of the drive. You are asking us to take the buffer that is supposed to be on the west side of your driveway and say that the east side counts for it.

Mr. Bass said that was just an option and we are open to suggestions. He said with the existing transmission line being there and the existing easement there, there is really no other option if we cannot overlap them.

Mr. Corley said to look at it backwards. If that back property owner already had a road through there where would you want them to connect? You would want them to connect to that road because then they would not have to clear anything, right?

We are sort of using the luxury that there is nothing there now. But again, picture if there was a 30 foot road that went all the way back there already and they were wanting to connect to that, we would probably encourage that as a Board right; as opposed to impacting more additional.

Mr. Dagenhart said if it were a public road yes, because then the buffers would apply differently.

Mr. Koch thinks that is where everybody wants to end up or at least he sensed that based on what Mr. Corley just said. But you cannot do that without a variance right now; that is the problem as he sees it. Because he thinks that makes perfect sense for everybody involved, given what may occur in the future behind this parcel. He said you cannot just do that straight up on a conditional use application; that is the problem.

Mr. Price thinks they would be wise to consider Mr. Koch's counsel, whatever we need to do there. He said whatever the applicant decides would be favorable to them. If they would like to request that we table it until next month and then work with staff on it and bring it back to us next month as a variance.

Mr. Litaker agrees. He said you cannot make a decision on could of, would of or should of. We are trying to predict the future and there will be a 30 foot road going through there later on. He said you never know what is going to happen and you cannot assume any of that. That could be all stripped and timber sold off and somebody try to build a gravel pit like we have seen before. We need to table it and let them come back with a variance and play it as though it is right now.

Mr. Bass said this is a new process for us. He asked for a few minutes to discuss with Ms. Morris what their next steps are.

The Chair allowed the applicant to take a few minutes to discuss with staff.

Ms. Morris said the applicant has a proposal that they would like to make to get the Board's blessing as far as moving forward. She is going to try to explain on their behalf what they would like to do since she is more familiar with the Ordinance and she understands what the Board is asking for.

(On a diagram) Ms. Morris showed the 60 foot access easement to the property in the back;

which is 50 acres. She said this thing kind of flips both ways. What happens with this site impacts the property owner in the back and what the property owner in the back does impacts them.

What they believe that they can accommodate, would be the original 75 foot buffer that they had proposed here (showed diagram) which is outside of that 60 feet, kind of treating that as a property line, so it shifts over.

She said they can move the road, but we would have to get approval from NCDOT to move the road. Which they may move, because it is not going to be the road that provides access to that back piece, which is 50 plus acres is going to be the priority for NCDOT not something that is occasionally accessed by boom trucks or people needing to do work.

What they are proposing is they will move the road over here (showed on diagram) somewhere. They would then plant here (showed on diagram) what they can because this is where the easement is and they cannot go underneath the power lines. So, they would accommodate the drive on this side, they would have the buffer here (shown on diagram) and move the driveway and they would put in the buffer where they can without going underneath that transmission line.

If they can make that happen they are willing to do that and then we would need to determine whether that goes as a variance first and then the Board consider approving a site plan to go along with it.

Mr. Dagenhart asked for a slight modification. The area between the 60 and the easement lines he drew, could you landscape that too? He thinks that would be the intention, the really narrow piece.

Mr. Bass said our intention is to put screening in between the property to the west and our access road, whether it is directly under easement, whether we plant on the outside, that way we can put more mature vegetation. Our intent overall, whether it is in that easement or not, would be to just put it on the west side, as opposed to the east side so that there is a buffer between the road and the property owner.

Ms. Morris believes what the Board would see back next month would be a request for a variance because they cannot accommodate trees underneath the transmission line, so they cannot have that continuous buffer, but the driveway would be on the site, not in the 60 foot easement and the trees would be located to the west side, is what we believe we heard the Board say you would prefer.

The Chair said and we would not have to see it from the road. It would be a more direct shot to the road from the substation.

Ms. Morris said yes, it would be a little bit more than what it was. The planting yard that you see in the front is the thoroughfare yard and is what they are accommodating there. But with them moving the site further in, there is some existing vegetation and when it is removed that should

moving the site further in, there is some existing vegetation and when it is removed that should grow up, so you would see it more, but from the road view it probably would just be more of an access drive because it is going to shift to that 300 feet off the road.

She said if that is something that the Board would like to consider, she believes that is something the applicant is willing to ask that the application this evening be tabled to come back with a revised plan for the variance request and then continue the conditional use permit based on the decision of the variance request. That way, their plan is good moving forward and if the gentleman who owns the property in the back decides to develop it, it will not impact their buffers in any type of negative way if they have to come back and expand this site any more.

Ms. Morris asked if that seems to accomplish what the Board was trying to get at.

Mr. Dagenhart and the Chair said yes.

Mr. Price said do we have a request to table or do we not?

Mr. Dagenhart said the applicant has to do that.

Ms. Morris said the applicant has offered up instead of potentially asking for the variance, to do the substitution for the under story trees for the shade trees that would be required in that 75 foot buffer. If they can make that work is that something the Board would accept that as long as they meet the Ordinance? So, they may not have to request a variance if they can make that happen.

Mr. Dagenhart thinks he would be more comfortable if they got NCDOT's approval on the relocation first, because if they can't, he does not know what they are going to do.

Ms. Morris said we would have to have the revised driveway permit with that plan for them to move forward next month. Because it is a change and we would send it back out for the standard review that we do. She said the Fire Marshal is going to want the 20 feet with the all-weather access on whatever that new road is and NCDOT.

The landscape architects said that he believes that they can do the substitutions and then they would not need to ask for the variance on the landscape and could maybe could come back with the conditional use. She said we will get that part worked out; just so the Board knows that is something they are willing to consider as well.

Mr. Dagenhart still thinks we would need a variance if the buffer is going to shift over further. It will still be west of the new drive location but it still will not be on the property line, unless you are telling me something different now.

Ms. Morris said if we treated the 60 foot right of way as the property line. She asked if there was a legal opinion on that.

Mr. Koch is trying to understand what they want to do tonight. Do they want to table it or do

they want to proceed with a revised conditional use permit application based on this new design. If they want to they certainly can because it would appear to him that it would meet the Ordinance. He will defer to Ms. Morris on that, but you would have to add the condition that they be able to get the driveway permit for the new location which would just be an additional condition along with the others that go along with this.

He is not sure he understands what we are going to do at this point.

Mr. Bass thinks they are a little be at an impasse and is not sure how to proceed. He does not know if some Board members prefer it on one side and would vote against the proposal on the other side. That is where his hesitation comes here.

Mr. Koch said we cannot do straw votes; you cannot take a poll.

Mr. Bass said he knows. He is inclined to table this process rather than to proceed to a vote where there are a lot of questions unanswered. With tabling this vote, we are going to more than likely move the road so it drives more or less directly into the station, because that is basically the only option that we are coming too at this point. He said with that said, we propose to table.

Mr. Brent Rockett, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the Request to Table. The vote was unanimous.

Ms. Morris said we will work the applicant and believe we understand what the Board is looking for in the case.

Directors Report

Ms. Morris said as of December 1st, we had 270 plus replies to the Harrisburg Land Use Plan survey. The Board should have the information for the website, that information is out there and she will send a reminder for them to go out and take a look at it so you are working through it as we working through the process.

She said there were no surprises, a lot of the same results were the things that came out of the Morehead Plan. People want restaurants in Harrisburg and we did get comments about no more grocery stores. Mixed use developments which is good because that is something that we are seeing trending a little bit differently than it has in the past from the single family half acre lots; so we will see where that lands and open space preservation. There wasn't really any kind of direction on how that would happen; so we will see.

Tomorrow we are having our second Advisory Committee meeting and we will see what comes out of that. We will then be following that up with a work session with Advisory Committee members and some Elected Official representatives to see what their take is on it.

You know how we normally say here is option A, here is Option B and we end up with something that is C or D. We are going to start working on those preferred options.

She said the next public meeting is tentatively set for February 6, 2018, and that will be a drop in session at Harrisburg Town Hall. We are thinking that it will probably go from 3 to 7, with the consultants being there for part of it and us staffing it up the other two to three hours. We want to allow time for our seniors that do not want to drive at night to come out and also for the people who work in Charlotte to have time to get into Harrisburg after work to be able to participate.

Mr. Paxton asked about the training session that is going to be in January 10th or 11th.

Ms. Morris said that is the work session, which will be a drop in. The February one is the one that is a drop in as well. The work session, she believes that our three primary folks were going to be able to attend. If we have someone who cannot be there the whole time, we can rotate people in and out. If the three primary folks would let her know if they are going to be able to stay the whole four so that if anyone wants to attend we can rotate them in. We cannot have more than four Board members attend at one time because it would be considered a meeting.

At this time we have three confirmed members attending. She said if Mr. Paxton and Mr. Price both want to attend they would have to split the time or only one of them can attend the whole time. She said that would be the four hour work session where we will get into the mapping and what does it look like and do those goals need to be changed.

She said we will do a little bit of that tomorrow with the Advisory Committee and the three primaries were able to attend tomorrow, so that is why you did not get back up emails from her to be there tomorrow.

She does not know if everybody is going to be able to be there the whole four hours but we could potentially rotate other folks in if you are interested in participating in that.

Legal Update

Mr. Koch said the WSACC application for a variance, from the 75 foot buffer at the Muddy Creek Waste Water Treatment Plant was appealed by the John Bunyan Green heirs that owned the property to the north, was heard yesterday and the Judge dismissed the appeal. The Board's decision was upheld, whether it will get appealed further we will have to see. The next stop would be to the Court of Appeals if that is what they choose to do.

The Sheriff has been chasing Mr. Phillip Little trying to arrest him; literally. He has moved the trailer. Mr. Koch went by there on the way to this meeting but it was too dark for him to see where it might be at this point.

The way it was set up by Judge McGee was that they would find him and detain him and then call Jay Lowe, our Zoning Officer to come over and see where the trailer was at that moment and give him an opportunity to actually comply with Ordinance and if he refused to do so they would take him into custody. He has been rather allusive, they have talked with him on the telephone. As of this point they have not found him. He seems to have a little help in being able to avoid the police.

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It has kind of turned into an interesting situation, but eventually they will get him; it is a matter of time.

He said there is no change in the Shelly case. It is still with the Court of Appeals.

We have a couple of other things working and that is why he was conversing with Ms. Morris. It may be premature to discuss them at this point.

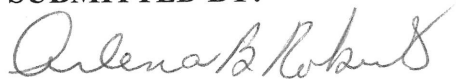
There being no further discussion, Mr. Brent Rockett, **MOTIONED, SECONDED** by Mr. James Litaker to Adjourn the meeting. The vote was unanimous.

APPROVED BY:



Mr. Chris Pinto, Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager