

Cabarrus County Government – Planning and Development



Planning and Zoning Commission Minutes October 8, 2024

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Jeff Corley, Mr. Adam Dagenhart, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Mr. Michael Bywaletz. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning Director and Mr. Chris Chapman, Planner. Also in attendance, were Ms. Lauren Linker, Clerk to the Board of Commissioners. Absent from the meeting were Ms. Holly Edwards, Mr. Andrew Nance and Mr. Mohammed Idlibi.

ROLL CALL

Ms. Susie Morris, Planning & Development Director, called the roll.

APPROVAL OF MEETING MINUTES FOR AUGUST 13, 2024

The Chair, Mr. Charles Paxton, asked if there were any corrections or additions. There being none, Mr. Bywaletz, **MOTIONED, SECOND** by Ms. Ingrid Nurse to **APPROVE** the Meeting Minutes for August 13, 2024. The vote was unanimous to **APPROVE**.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR VARN2024-00001

The Chair asked if there were any corrections or additions. There being none, Mr. Corley **MOTIONED, SECOND** by Mr. Dagenhart to **APPROVE** VARN2024-00001. The vote was unanimous to **APPROVE**.

RULES OF PROCEDURE

The Chair asked if there was a motion to approve the Rules of Procedure. Mr. Corley **MOTIONED, SECOND** by Mr. Dagenhart to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

RZON2024-00005-Request to Rezone Property from Office/Institutional (OI) District to Agricultural/Open Space (AO)

The Chair called on Mr. Phil Collins, Senior Planner, to present the Staff Report.

STAFF REPORT

Mr. Collins said, the applicant's name for this rezoning is Wendell Rummage and the owners of the property are Peggy Sams and Bobby Jenkins. The request is to rezone the property from OI (Office/Institutional) to AO (Agricultural/Open Space). Currently all the uses permitted in the allowed district are permitted within the subject property. If the rezoning is successful, all uses permitted within the AO district will be permitted within the subject property. Exhibit F was included in your packet of information to show the different uses comparing the two. The subject property is approximately five acres in size and located on the northwest side of Short Cut Road. It is part of the 59.87-acre parcel. Most of which lies on the southeastern side of Short Cut Road. The entire tract is in the county's Present Use Value Program, more specifically the Forestry Program. The subject property and nine acres on the other side of Short Cut Road were harvested back in 2019. If the subject property is built upon, it will be removed from the PUV Program and the owner will need to reapply to keep the remaining acreage in the Program.

An intermittent stream traverses the front portion of the subject property from a southwesterly to northeasterly direction parallel to Short Cut Road. The stream feeds into Long Creek, just north of the subject property and the subject property is currently vacant. Agriculture uses surround the subject property on all sides. There are also residential uses on the south and west sides. The subject property is surrounded on all sides by AO zoned properties. There are also OI zoned properties to the north and west of the subject property.

The property will need to be served by well and septic, as public utilities are not allowed within the AO District. The Ordinance states the OI District intended to accommodate relatively, low intensity Office/Institutional Uses at intensities complementary to residential land use. The district serves as a transitional district between Residential Land Uses and higher, intense non-residential land uses.

With regards to the AO District, the Ordinance states that the AO District is comprised mostly of land usually found on the eastern side of the county. Due to physical characteristics such as soil type; topography, etc. should remain agrarian. To a lesser

degree, these are also those lands which are conducive to providing recreationally-oriented open space. These land areas should remain the farmland and undeveloped forested land of the county. Public utilities will not be planned for these areas.

Consequently, Residential Uses that support those working and/or owning the land, home occupations allied with existing residences and very, limited business endeavors are envisioned as complementary to the area. The primary activity of these lands is agricultural. Housing and business are typically related to and supportive of the practice of modern-day agriculture. However, it is not improbable that a small, hamlet type settlement may evolve in the zoning district.

As to those areas constituting open space, man-made uses must take care to enhance and not distract from the essential character of the area. The Ordinance also offers the following rationale for the AO District:

Cabarrus County, due largely to its proximity to the Charlotte-Mecklenburg Metropolitan Area, is in a growth mode, which will in all probability continue. While the issue of farmland preservation may ultimately be more driven by market economics, it still behooves public policy makers to prudently attempt farmland preservation unless a matter of market economics is the concept of retaining unspoiled, undeveloped lands for future generations to enjoy.

During the review, we don't usually provide the comments because there's not a lot. This time the NCDOT commented that the property owner will need a permit from the NCDOT if the subject property is used for commercial, business purposes or if they build a house to sell. The driveway will also need to be placed in a safe location. With this being a conventional rezoning, we can't really place any conditions on that. I mentioned they will have to subdivide and during the subdivision, we will address that.

Also, the Soil and Water Conservation District stated that there is a Conservation Easement across from the property on Short Cut Road, which you can see in Exhibit C. (Pointing to the map) there are also wetlands within the tax parcel on the southeast side. This is the Conservation Easement.

Subject property is located within the vicinity of US-52/Glenmore Road area, which was included in a list of seventeen sites for potential, economic development opportunity in the 2006 Strategic Plan for Economic Development. The US-52/Glenmore Road area was included due to its proximity to US-52 and a rail line and its potential for mining and production of lightweight, structural aggregate. If you look at Exhibit G, you will see that the property is located right there (pointing to map).

The subject property is also in the Eastern Land Use Planning area. The Eastern Land Use Plan designates the subject property and other properties in the northeast corner of the county as future employment. The Plan states that these areas are economic opportunities in regard to future employment opportunities and industrial development because of proximity to US-52 and the rail line.

In conclusion, the site is vacant, wooded and zoned OI. The site is currently used for agricultural purposes and is the county's Present Use Value Program. The property has been in the PUV Program since 1984 according to tax records. The subject property is a portion of the larger tract, 59.87-acre tract, located on both sides of Short Cut Road and is zoned Agricultural Open Space District. Agricultural uses are not permitted within the OI District. Therefore, a rezoning of the subject property would be more in line with bringing the current use of the property into compliance with the current in Ordinance.

In 2005, several counties were zoned to the newly, created Office/Institutional District. Creation of the OI District and rezoning was prompted to be the ongoing Leak Goforth Study that identified potential sites for future employment, industrial development opportunity. The study would later be adopted as the Cabarrus County Strategic Plan for Economic Development in March 2006. Subject property was included in the rezoning and expansion of the area was identified in the study as Site Q.

The proposed rezoning is not consistent with Eastern Land Use Plan. However, the area where the subject property is located has not developed as contemplated in the original plan, except for the Vulcan Quarry to the northwest. For the most part, the remaining properties in this area are used and developed for agricultural and residential purposes. Most residences were constructed and many of the properties were used for agricultural purposes prior to the establishment of county zoning in 1982 and prior to the OI rezoning in 2005. Residentially- zoned properties border the subject property to the northeast, south and west. The property is bordered to the north and northwest by properties zoned OI. Industrially-zoned property lies approximately one-half mile to the northwest of subject property and that's Vulcan.

Again, this is conventional rezoning request. Therefore, all uses permitted within the AO District would be allowed on the subject property, if approved. Planning and Zoning Commission should consider all information provided and determine if the rezoning is consistent with the Commission's vision of this area of Cabarrus County. I will take any questions you might have.

The Chair asked if there were any questions.

Mr. Bywaletz said, on Exhibit C there's a light blue coloring around the triangle. What does that represent?

Mr. Collins replied, the black designates the area to be rezoned. There's OI to the north and to the west. It would all pretty much just be one AO District.

The Chair called on the applicant to speak.

Mr. Wendel Rummage stated, I'm a real estate agent in this area and I represent Ms. Sams and Mr. Jenkins project. They're just wanting to subdivide this property with the intent to sell it on the market and have someone buy it and make a homestead there. We did get a soil scientist to go out and give us some information so we could proceed with the listing. Obviously, we can't list and sell it, if it's OI, for a residential property. So that's why we're here tonight seeking the possibility of getting this rezoned so we can slice off a little piece of that 59 acres and use the property for someone to build a home.

The Chair asked if there were any questions for the applicant. There being none, the Chair opened the public hearing and called on Mr. Bobby Jenkins to speak.

Mr. Jenkins said, we just want to sell it so that we can have it rezoned for a house.

The Chair asked Mr. Jenkins to please state his address.

Mr. Jenkins replied, 533 Crestview Drive, Albemarle, North Carolina. Thank you.

The Chair asked Mr. Rummage if he was speaking in favor or against the request.

Mr. Rummage replied, I live at 3101 Fairmead Drive in Concord and I am for this rezoning.

The Chair asked if there was anyone speaking against the request. There were none.

The Chair asked if there were any additional comments or questions. There were none, the Chair closed the public hearing and opened discussion for the proposed request.

Mr. Corley said, I think the main thing here obviously, is that the current use of the property isn't working. It was not developed the way those original plans thought it was going to. So, the proposed use appears, while inconsistent with the plan, does appear to be consistent with the way the rest of the area has developed. What was mentioned by the applicant appears to certainly be compatible with the surrounding area.

The Chair asked if there were any other comments.

Mr. Dagenhart said, I would also like to add, it's not just the infrastructure, there are no negative impacts on the resident's property.

The Chair asked if there were any other questions or comments. There being none, the Chair asked if there was a motion to approve or deny the request for rezoning.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **APPROVE** the rezoning request from Office Industrial (OI) to Agricultural/Open Space (AO). The vote was unanimous to **APPROVE**.

CONSISTENCY STATEMENT

The Chair stated that the next step would be the consistency statement.

Mr. Rockett said, I think we got pretty close on that one, so I'll start. This rezoning is reasonable in the public interest. The current use of the property is more compatible with the proposed zoning than the existing zoning. The surrounding area is not developed in the way that the Eastern Area Land Use Plan had anticipated. Although, it is not consistent with Eastern Area Land Use Plan. However, it is consistent with the way the rest of the area has developed, and its use is consistent with the surrounding properties in the area.

Mr. Dagenhart added, it is not detrimental to the infrastructure, character of the area or the creating of any negative impacts.

The Chair asked if there were any other comments. There were none.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the Consistency Statement. The vote was unanimous to **APPROVE**.

PLOTHER2024-0008-Automatic Amendment to Adopted Land Use Plans Due to Approval of Rezoning Requests by the Planning and Zoning Commission

The Chair stated the next item on the Agenda is the Amendment to Adopted Land Use Plans due to approval of rezoning requests by the Planning and Zoning Commission.

The Chair called on Ms. Susie Morris to present the item.

Ms. Morris said, as you all are aware, prior to 160-D, there were some changes to the legislation that said if you had an adopted land use plan and if you approved something that was inconsistent with that plan, it was considered an automatic amendment to that land use plan. If you remember, we had one batch that came to you in 2021. The item that you have before you this evening is the rezonings that occurred between January 2022 and December 2023. No 2024 cases are included.

You have a list that is color coded to show you the eight proposed rezonings that we had during that time. Out of those, seven were inconsistent with the plans.

If you remember, we had a land use plan committee that we had set up for the last review. The committee did not review the list this time, but Staff did review it and the reason that you all had the cases and proposed zoning changes and approved the changes was because over the course of those two years, you had a lot of rezonings cases that were for properties that existed in areas of the county where the zoning was inconsistent with what they were doing, or with what was built on the property.

At this point, there are no recommendations to change the actual land use plan to accommodate what is happening. It is more to be aware that the proposed and approved, rezonings were to recognize things that already existed, not that there were incompatibility issues or anything like that showing up in the land use plans.

In the Central planning area, we had two rezonings. One was consistent, the other one was not. In the Northwest planning area, we had two, and both of those were inconsistent with the plan. In the Midland Planning area, we had one that was inconsistent with the plan. In the Eastern area, we had two that were inconsistent with the plan. In the Western area, we had one and that was inconsistent with the plan.

As you can see on your list, and some of these may be familiar to you, there's a brief description, with the Central Area Plan, you know one was Alan Volunteer Fire Department and then one was Ms. Sigmon and Ms. Fisher. They were the ones who had that residential property at the corner that was rezoned to commercial. Allen Fire Department, they were over on their impervious and they wanted different signage. These rezonings were corrective actions to fix a lot of those things with those specific properties.

In the Eastern Area, one was the church, where they needed that corrective action again on their impervious and rezoned to OI, and then the other one was an OI to AO closer up to the Vulcan site. If you remember that one, because again that area has not developed as anticipated.

The Midland Area, that one was a change from LC to CR. That was the one where, if you recall, it was the family property and the gentleman wanted to build a house with the access point towards the back.

The Northwest Area Land Use Plan again, one was the church and then, actually both were for churches, that were out of compliance.

With the Western Area Plan, that one is the one that we dealt with several months in a row, Evolution Aquatics, and it was originally proposed and constructed as an indoor recreation facility. They then wanted to add those outdoor facilities. That is the one that's over off of Eastfield by the original Sky Brook.

Essentially, what we did the last time is the same that we will do this time. The list and then the maps that were included in your packet will be provided as a supplement to that particular Land Use Plan. That way we have a record of the rezonings that need to be incorporated into the land use plan the next time that it is updated, but also we have that short list so that if we are doing a staff report for rezoning or if the general public is looking at that information, they will also know that something may be different from what is shown in our actual plan.

Ms. Morris said, the requested action this evening would be a motion to approve the supplements to be added to the individual land use plans, that there is no corrective action, and no further action needed with the overall adopted land use plan documents.

I'd be happy to answer any questions you might have.

The Chair asked if there were any questions. There being none, the Chair called for a motion.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Jeffrey Corley to **APPROVE** the supplements being added to the land use plans. The vote was unanimous to **APPROVE**.

DIRECTOR'S REPORT

The Chair called on Ms. Morris to provide the Director's Report.

Ms. Morris said, I don't have anything official. I did want to introduce you to our new Planner on staff. His name is Mr. Chris Chapman. He's a graduate of UNCC with a geography degree. He will be presenting staff reports and helping us with our daily business. He has been with us for six or seven weeks now.


We are very happy to have him because those of you that are involved in the hiring process these days know that it can take a very long time to find the right candidate for a position. We are excited to have him and want to officially welcome him.

We do have one other position open, an admin position. If you know anybody that is looking for that type of a position that has a legal background or transcription, the position is posted. That's all I have. Thank you.

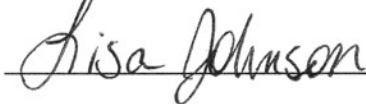
The Chair asked if there was any other business to discuss. There being none, he called for a motion to adjourn.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Jeff Corley to adjourn the meeting at 6:57 p.m.

APPROVED BY: Charles Paxton, Chair



SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission



ATTEST BY: Susie Morris, Planning and Development Director

