

Cabarrus County Government – Planning and Development



Planning and Zoning Commission Minutes May 13, 2025

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, Ms. Holly Edwards, Mr. Brent Rockett, Mr. Michael Bywaletz, Ms. Ingrid Nurse and Mr. Mohammed Idlibi. Attending from the Planning & Development Department were Mr. Phil Collins, Senior Planner, Ms. Susie Morris, Planning & Development Director and Ms. Lisa Johnson, Clerk to the Planning & Zoning Commission. Also in attendance was Mr. Douglas Hall, General Counsel. Absent from the meeting were Mr. Andrew Nance, Mr. Stephen Wise and Mr. Chris Pinto.

ROLL CALL

Ms. Lisa Johnson, Clerk to the Commission, called the roll.

APPROVAL OF APRIL 8, 2025 MEETING MINUTES

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Jeff Corley, to **APPROVE** the meeting minutes for April 8, 2025. The vote was unanimous to **APPROVE**.

APPROVAL OF GRANTING ORDER AND FINDINGS FOR RZON2025-00001

Mr. Jeff Corley **MOTIONED, SECOND** by Mr. Adam Dagenhart, to **APPROVE** the Granting Order. The vote was unanimous to **APPROVE**.

Mr. Charles Paxton, Chair, reminded everyone that wishes to speak to fill out a blue card.

The Chair read the Rules of Procedure:

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15-minute time limit on the presentation if the Applicant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.
3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and present documents in support of their position. The 15-minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and present documents in support of their position. The 15-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting, and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.

9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

APPROVAL OF RULES OF PROCEDURE

Mr. Brent Rockett **MOTIONED, SECOND** by Ms. Holly Edwards, to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

RZON2025-00002-Request to Rezone Property from Office/Institutional (OI) to General Industrial (GI) District

Isaac Padgett is the agent for the request and Potts & Burris LLC is the owner of the subject property. The address associated with the subject property is 1967 Mulberry Road (PIN: 5527-09-1740).

The Chair asked the Commission if there was anyone that had any conflicts related to this case that needed to be shared. There being none, the Chair called on Mr. Phil Collins, Senior Planner, to present the Staff Report.

STAFF REPORT

Mr. Phil Collins said, the subject property is 1967 Mulberry Road, and the subject property is approximately five acres in size. The subject property is currently vacant. A power line traverses the front of the subject property from west to east. The subject property is not located within a watershed area and has no regulated floodplain or streams. The applicant is requesting five acres of the total ten-acre tract be rezoned. You can see that in Exhibit B, which I will put on the screen now. It's not the whole parcel that is being requested to be rezoned, just a portion of it.

The subject property is surrounded by industrial use to the north and residential, agricultural and vacant properties to the east, south and west. Surrounding zoning consists of General Industrial, Office/Industrial (OI) and Harrisburg Employment Center. To the north, GI, OI and AO to the east and OI to the south and west.

The Ordinance states that while the GI district permits both large and small scale industrial and office development, its primary purpose is to provide a location for large scale development. It is designed to permit a very wide variety of industrial uses, which may occur both indoor and outdoor, including certain land uses which are permitted in no other zoning district because of their potential to create nuisances for adjoining

properties. In no case, should a general industrial district be located where the result is industrial or commercial traffic penetrating a residential neighborhood.

The Ordinance further states the district is intended to provide a location for both light and heavy industrial uses in a zoning district in which the potential for nuisance complaints from nearby properties is minimized. Certain land uses will be permitted only upon issuance of a special use permit. General industrial districts are compatible neighbors with the light industrial and general commercial districts. Care should be taken to site this district on major roadways or near other forms of transportation, such as rail lines, airports, etc.

The subject property is in the Harrisburg Planning Area. The Harrisburg Area Land Use Plan (HALUP) designates the subject property as "Office" future land use. The Plan states that these areas include a mix of professional offices, flex space and supporting commercial uses.

The Land Use and Development Design section of the Plan provides a table that lists appropriate zoning districts for each proposed land use category. The table lists OI, LI, GI and GC as appropriate zoning designations in the "Office" future land use category.

In conclusion and summary, the site is currently vacant and zoned Office/Institutional. The overall acreage of the subject property is ten acres; however, the applicant is only requesting that roughly five acres be rezoned. The applicant is proposing a use of the property that is not permitted in the OI zoning district. GI zoning would be needed to accommodate the proposed use. Properties to the north of the subject property are zoned Cabarrus County GI and Harrisburg EC (Light Industrial and Employment Centers). The area to the east of the subject property is residentially used and zoned AO.

The subject property is separated from the residentially-zoned area by a 60-foot wide section of adjacent property owned by Mulberry Holdings, LLC, that is currently zoned OI. The applicant has proposed to leave an additional 40-foot section of the subject property zoned OI around the area that is part of the rezoning request. The proposed zoning change from OI to GI would allow for additional uses, and more intense uses, than currently permitted under the existing Office/Institutional zoning designation.

This is a conventional rezoning request; therefore, all uses permitted in the GI zoning district would be allowed on the subject property if approved. The Planning and Zoning Commission should consider all the information provided and determine if the

proposed use is consistent with the Commission's vision for this area of Cabarrus County. With that, I will answer any questions you may have.

Mr. Charles Paxton, the Chair, asked if anyone had any questions.

Mr. Jeff Corley asked, the description of the proposed district and the existing district and the rationale for both of those, that is verbatim out of the zoning ordinance?

Mr. Phil Collins said, yes.

Mr. Adam Dagenhart asked, do you know if the proposed lot layout from the applicant meets the subdivision ordinance?

Mr. Phil Collins replied, do you mean their plan for site design? Yes, it does.

Mr. Mohammed Idlibi asked, do we know the intended use for the other half?

Mr. Phil Collins said, it will remain OI, so whatever is allowed in OI will be allowed there.

The Chair asked if there were any other questions.

Mr. Adam Dagenhart asked, so buffering between the line?

Mr. Phil Collins replied, yes, they will have to provide buffers, even though it's not a property line.

Ms. Susie Morris, Planning & Development Director, said, (showing on map), this is the part they are asking to be rezoned. This is the part they're saying is going to be OI and this is the adjacent property. In this case, Phil told you the property has not been subdivided yet. That would be contingent upon the result of this meeting.

Mr. Phil Collins said, I think they do intend to do that, and they understand a buffer is going to be required on the inside as well.

Ms. Susie Morris said, when the new parcel is created, it would have to be whatever that zoning designation is buffered to; this OI on the exterior.

Mr. Adam Dagenhart asked, I'm just wondering if there will be enough land there to actually buffer and have access?

Mr. Phil Collins said, I don't know if they've had time to look into that. They are aware of that, and they will have to have well and septic.

The Chair asked if there were any other questions. There being none, the Chair called on the applicant, Mr. Isaac Padgett, to speak.

Mr. Isaac Padgett said, I am here to represent Rodney Baker, who is purchasing the property from Potts & Burris, LLC. The property is Office/Institutional. Rodney has run his father's business for the last 45 years out of Charlotte. It is a fleet service, and he does truck repairs. He also parks trucks and trailers on his property. That's the use he's wanting to do on this property. The only zoning that it allowed is General Industrial (GI). We understand there's a lot of things that the neighborhood will not really be interested in having on this property. We have offered deed restrictions, once we get the zoning in place. Like I said, he's been in business for 45 years. We had a community meeting and tried to address all of their questions. A lot of them are here tonight and we started working on this several months ago.

We considered the conditional district rezoning. The issue with that is this is a small businessman. We're talking several \$100,000 to do the due diligence to see if it can go to the conditional district. When we looked at the due diligence cost for a small businessman or woman, we decided to do the middle of the property. There were actually some neighbors that were on board with that and suggested that would alleviate some of the burden and heart burn they had with it being zoned GI.

I don't know if you guys and gals know this, but there's been several rezoning attempts on this property. It's been a nightmare for the neighborhood. I think there's a lot of granite on the adjoining properties and they were trying to zone that for a mine. In that particular rezoning, the neighbors were not notified until the day before. You have to notify the exact neighbors, so the guy went out and got everything around in a company name. The Ordinance reads that you have to notify the neighbors. Well, he notified the neighbors, but he didn't notify the neighbors. They are here tonight. Some will hopefully speak for us and some against us. We will try to answer all of their questions.

We are proposing a well and septic. The issue with fire service came up and the water line. We're a little over the 400 feet that's required. I've had several conversations with Jacob Thompson, Fire Marshal. He's willing to work with us on that. The Ordinance says 1,500 gallons per minute, 750 gallons that's allowed by tank or shuttle. We'll be building a metal building, whatever the county requires, on the front of it. There is no sewer; there is a water line about 428 feet from the site. However, we will be using well and septic. Rodney was at a community meeting to answer all the questions. The neighbors

are aware that, if we succeed in the rezoning, we are going to meet with them again to come up with a list of deed restrictions on the property to cover that conditional district that blocks some of the heavy uses like smelting, steel factories, mines, crematoriums; anything that puts off a lot of noise or smell. We're going to try to block those with deed restrictions. We've had that conversation with several of the adjoining property owners. Apparently, one of the property owners here tonight didn't receive his letter. I think he realized we were doing the rezoning because he saw the sign. He's here also, but we did mail out about 23 letters to all of the adjoining neighbors to let them know about the community meeting and we appreciate your support.

Rodney lives on Zion Church Road in Cabarrus County. His kids go to Central Cabarrus High School, and he is very active in the community. If you have any questions, I'd be willing to answer those, and I may have a rebuttal later.

The Chair asked if there were any questions.

Mr. Mohammed Idlibi asked, do you have a site plan that you could share, or could you tell us more about the size of this metal building?

Mr. Isaac Padgett said, the metal building will be 3,000 to 3,500 square feet max. We have a site plan based on the ten acres. Since it's not a conditional district, it didn't get in the packet. I can't provide that to you because the drawing was based on ten acres and we've reduced it to five acres for now.

Mr. Mohammed Idlibi asked, the intended use is auto repair?

Mr. Isaac Padgett said, yes, fleet services, R&R Fleet Service. They are on Atando Avenue and North Tryon Street where NoDa is exploding, and he's been in business for 45 years.

Mr. Mohammed Idlibi said, one last question for me. How much outside trailer storage will be visible to the street? Or will this all be within the 3,500 square foot building?

Mr. Isaac Padgett said, there will be parking outside the building and on the property, but it has to be screened. There's going to be buffers, even in addition to the 40 feet that's going to be left undisturbed. There will be an additional buffer that's required in the GI zoning.

Mr. Mohammed Idlibi asked, so there will be outside storage?

Mr. Isaac Padgett replied, yes, there will be outside storage. He does oil changes on 18-wheelers. He has a contract with a company that's actually associated with the landfill out there that recycles oil. So, he has a tote, all the oil goes into that. The guy comes by, drains it out, puts it in a tanker and hauls it off. So, there would be no oil contamination to the ground.

The Chair asked if there were any other questions.

Mr. Adam Dagenhart asked, so there will be just trucks or trucks and trailers?

Mr. Isaac Padgett said, yes, both. Let's say you have three trucks. You own your own business. You have three semis and they're gone for two weeks and they're home for a week or two. He would rent them a spot to park, just like he does in Charlotte on his lot there. You may have an 18-wheeler sitting there for a week or two, but it's very regulated. It will be gated. The site plan has two entrances so they can circulate in and out.

One of the problems with the neighborhood is there's tons of trucking companies there now. Those trucks aggravate the neighbors and the community by coming down to a residential area. There's nowhere to turn around, so one thing we're going to put in place is signage, have two entrances, and have gates approximately 100-feet off the road, so they can pull in and not block the road.

The Chair asked if there were any other questions.

Mr. Adam Dagenhart said, so my question to Phil earlier about the 40-feet. Have you guys looked into the OI versus GI on the landscape buffers? Are you going to be able to make that work and still get access to the rear five acres?

Mr. Isaac Padgett replied, yes, we have looked at that. We have looked at the buffer in both of the zoning categories. The question was raised about the back five acres of where we have BMP drawn and septic. That's something we have to deal with as we move forward. We may have to put the well in front and the septic in the back with the BMP. We were told we're not allowed to have those on the back five acres. So, we will probably have to do underground BMP.

Mr. Adam Dagenhart asked, do you roughly know how much impervious storage area you have?

Mr. Isaac Padgett said, I don't know right offhand. Like I said, our drawing was for the ten acres, so it's hard to back out of that without sitting down with the engineer and talking to him about it.

Mr. Charles Paxton asked if there were any other questions.

Mr. Michael Bywaletz asked, will this facility look similar to the one that's across the street?

Mr. Isaac Padgett said, the only thing that's across the street is a landfill. If you look at the property to the northwest, that's JB Hunt Trucking Company, their building is metal.

Mr. Michael Bywaletz asked, does it look similar to that?

Mr. Isaac Padgett said, right. County will probably make him do a facade on the front of the building facing the street, either out of brick or stone to dress it up. We won't know that until we submit the drawings. My guess is working with them on other projects, they're going to make him dress that up and he's aware of that. So, you would basically have a metal building with a facade on the front for beautification.

As far as bathrooms go, he's going to have a half bathroom there. So, he's not going to have two or three different bathrooms. He's going to have a water closet and a sink and a place to wash hands and clean up.

The Chair asked if there were any other questions.

Mr. Jeff Corley asked, does he already own the property or is it contingent upon the zoning?

Mr. Isaac Padgett replied, it is contingent upon zoning.

Mr. Mohammed Idlibi asked, have you done any traffic impact analysis on this? Do you know how much traffic it would generate?

Mr. Isaac Padgett said, we have not done a TIA with that. We're down from the trucking companies. If you're looking at the map, we're to the right of that. Basically, the right is residential and there's a landfill in front of it. On the other side of Mulberry Road, that's JB Hunt Trucking Company. A fire hydrant is actually in their front yard, and we've had conversations with the city on that because the City of Concord owns that. Since we realized we're in the county, we had a conversation with Jacob Thompson at the Fire Marshal's office.

The Chair asked if there were any other questions.

Ms. Ingrid Nurse said, I was just looking at the map. Is there going to be a blind spot or anything in that area?

Mr. Isaac Padgett said, you can basically see from JB Hunt as you enter their property. You can almost see to that curve down there as the road goes in. There's no blind spot there as far truck, trailers or vehicles coming out.

He also does a lot of service body trucks like fleet services. Just like the city and county have their fleet service, he does a lot of that work, too. So, it's not all going to be semi work. It's going to be a combination.

Mr. Charles Paxton, Chair, said. I have a question. You mentioned there wouldn't be any oil runoff. What about other types of runoff that could occur. Are there any thoughts about how you could contain those?

Mr. Isaac Padgett said, I'm sure we'll be dealing with that when we move forward with presenting our plan to the county. I'm sure we'll have to meet the requirements, whatever it is. The majority of parking will probably be a number 57 stone. It's probably going to be an impervious area. Anything contaminated, I would think, would run off into the BMP and be captured there and filtered out. Does that answer your question?

The Chair asked if there were any other questions.

Ms. Susie Morris said, just for clarification. I think the question Mr. Dagenhart was asking is, could a buffer to residential be accommodated? The answer to that question is most likely not. If they were going to try to do something with that, they would probably be back for a variance. To Mr. Padgett's point, what they were balancing around included the whole ten acres, with only part of it being rezoned. This is a conventional rezoning, so we cannot put any conditions on it. If approved, the expectation would be that they have to create a new parcel and then those landscape buffers would end up being GI to OI.

Mr. Brent Rockett said, because you can't have multiple zones in one parcel.

Ms. Susie Morris, it would become a new parcel.

Mr. Brent Rockett said, but you can't have GI in the front and OI in the back and it still be one lot.

Ms. Susie Morris said, you could, but in the uses they are proposing, you flat out can't do that in OI. So, it has to be GI or it's a no go, for the types of uses they are proposing. The Land Use Plan calls for this to be office and this is something out of that scope of OI and that office designation.

Mr. Mohammed Idlibi said, do we have any land use plans for the county or the City of Harrisburg on what the intended use of this parcel is and can you share some of that?

Ms. Susie Morris said, the office part that I was just speaking of.

Mr. Mohammed Idlibi said, I noticed there's industrial closer to the interchange, then office and then there's residential. Was that intended to become transitional?

Ms. Susie Morris said, this whole area is designated as Office/Institutional, and it is also zoned as Office/Institutional.

Mr. Mohammed Idlibi said, the land to the west of it appears to be industrial use. The land to the east is residential. Was the intention to have a transitional zoning?

Ms. Susie Morris said, this area initially was anticipated to turn over to industrial. That did not happen. When they did the Harrisburg Area Land Use Plan, people were very clear in that area, that they did not want the industrial coming any further. So, this is the Office/Institutional area to try to get that transitional zone between that heavier industrial and the residential. A lot of the people sitting here right now will actually tell you that their property was zoned OI. Several years ago, people came in and asked for the residential portion be put back to residential. It was about 125 acres, I think.

The Chair asked if anyone had any additional questions. There being none, the public hearing was opened. The Chair called on Mr. Rodney Baker to speak.

Mr. Rodney Baker said, my name is Rodney Baker. I own R&R Fleet Service that's located in Charlotte, NC, right now. Like Isaac said, I've been in business for 45 years. They're exploding with apartments and condos where I'm at now. I've looked for a piece of property for well over two years and this became available and we're trying to work this deal out. We are trying to accommodate the family that lives at the end of the road as best we can; not to impose on them and create a hardship for them. I need to have a place to run my business and like Isaac said, it's a tractor trailer repair shop. I also do medium-duty stuff, but I don't do cars. I do everything from F-350 and up. Their truck and trailer may be there for two weeks and then they'll be gone for two weeks, but they have to have a place to park when they get back, so you don't have to see them at the

exit ramps of every road. That's my service offering, and it helps them to have a place to work on their equipment. I provide them a service and I do the best I can to accommodate their needs. If you have any questions, I'll be happy to answer.

The Chair asked if there were any questions. There being none, the Chair opened the portion of the hearing for those generally speaking against.

The Chair said, the first one on my list is Mr. Cash. Mr. Brian Cash chose to pass, so the Chair called on Mr. Bobby Lee (Measmer) and Mr. (Measmer) chose to pass. The Chair called on Ms. Jennifer Hill to speak.

Ms. Jennifer Hill said, my name is Jennifer Hill. My address is 6340 Homestead Place, Concord, NC 28025. I actually live off of Mulberry Road. Mulberry is a dead end and Homestead Drive is a dead end. My family has lived on this property for over eighty years, and it is important to us. I was the one that spoke after the Land Use Plan originated when we became Office/Institutional and Industrial. We came as a whole neighborhood to have our property changed to Agricultural/Open Space, so it would flow better.

Right now, we are Agricultural/Open Space. When Isaac is talking, he's totally telling the truth. I want to clear up just a couple of things. We are not completely against this. We understand he needs a place to run his business. On the other hand, it's where we live, and we have something special there. This doesn't happen in Cabarrus County very often anymore. When I get deliveries, people say, wow this is crazy. So yes, at the end of the road, it used to be SBC. I think it's called Grier; it is a boxing company. Up on the hill of the road, is JB Hunt. It's the one you can see in the center. Then we talked about the landfill. We can't see the landfill from our road. It's across the street, but we can't see it. It's not like the one on Morehead, we can't smell it or any of that. When you talk about the hill at JB Hunt, you enter into woods and then it opens up into where we live.

The biggest concern we have is, for years now, we have battled with a man named Jerry Meade. I'm surprised he's not here tonight. Jerry Meade went to Harrisburg and petitioned to be annexed to become GI zoning so that he could put in an asphalt plant and mine for granite. I know there's a granite shortage because we've been trying to get my mother's tombstone for almost a year now. So, his first steps were to put the buffer in so that none of us got contacted. Thankfully, someone came to us and said this is happening, so we were able to go. We have battled and battled with him. Our concern is allowing the GI without conditions being put on it, is going to allow him the loophole to allow him to say, you gave him GI, so why can't you zone me GI? Then all of a sudden,

we have a mining asphalt plant. Harrisburg has said no; we're in the Harrisburg Land Use Plan. We've been to them multiple times. That is our biggest concern. How do we protect what we have and what the Land Use Plan says? This gentleman, his character is that he went and took a piece of zoning around a property, to be able to not notify the neighbors of what was happening.

That is not the type of person we want to run a business in Cabarrus County. When we say we are for Rodney, but then against Rodney, that's where we're coming from. We would like to have conditions put on this, so that there's no trucks parking on the road. If one truck is stopped on Mulberry, we can't see around it. On Good Friday or Easter Monday, I had three trucking incidents. I'm a teacher so I was off that day. Three times, I had a problem with a truck on that road. One incident, on the crest of the hill, I said, what are you doing? He said, I'm using my GPS. I said no, you do that in the parking lot or somewhere else. Rodney has said, I will try my hardest to make it right, but how do you know? We can't control everyone, so we just want conditions to protect us. I understand they're saying they want to put the conditions on the deed. Explain to me what that means. I've always dealt with conditional land use because of when we worked with the landfill people to get conditional uses on their property. I've never dealt with a deed use, so how does that work? If they put it on the deed and his business doesn't survive here in Cabarrus County and one year later, he can sell to someone else. Do those deed conditions go away and now we've opened it up for Jerry Meade? How do we protect us? That's the part I don't understand. So maybe, eventually someone can answer how that works.

One thing I caught here, Isaac, was the tanker shuttle. I thought they were going to move the fire hydrant down. We have someone here that is actually my brother. Their house burned down twenty something years ago. The tanker shuttle does not work in our area. The road isn't big enough; they can't get the trucks in. Once they get a couple in, it's done. That was something that perked my ears up; how is that going to work? It's an unlined road. The road does change; it's a descent up to JB Hunt. After that, the pavement changes and it becomes that gravelly stuff the DOT put down, it's not pavement. That would be a concern and there's also a train track. We have one way in and one way out. The train track is at SPC. So, if the train is loading and traffic is stopped, there's additional concerns there.

That's what we're here for. It's not that we don't want him there. They have tried to work with us, and we are very thankful for that. What is the difference in conditional use

permits for the property that stay with it versus going on the deed and goes away when you sell it? So, how do we protect us and the County from Jerry Meade?

The Chair said, at this point, I will call on the attorney.

Mr. Douglas Hall, General Counsel, said, that certainly would be effective. You can put restrictions on the deed. Most of us have restrictions on our deed, whether you realize it or not. They can be "in gross", which means it only applies to that owner or it can be "appurtenant", which means it runs with the land. I was jotting down some notes on what we would want if that decision was reached. When he purchases the land, before that deed is recorded, we would need to vet that language that's placed in the deed to make sure it meets whatever decision might be rendered and make sure it's appurtenant and not in gross because if it's appurtenant, it will always be there.

Mr. Jeff Corley asked, are they privately enforceable or publicly enforceable by the county.

Mr. Douglas said, yes, they could be enforced by the county. Anybody that lives adjacent, for example, could sue. Just like if you're in a private subdivision, anybody in the subdivision can sue to enforce the covenants.

Mr. Jeff Corley said, you use the word adjacent. Is there anyone residential that's adjacent?

Ms. Jennifer Hill, said, can I approach again just to show on the map? This is where he's talking about rezoning and then he has his buffer in this direction. Then you see an additional line; that is the Jerry Meade trust property and the very next is where our homes all start. So, there are the two lines there. We're not considered adjacent.

Mr. Mohammed Idlibi, said, so that very skinny parcel?

Ms. Jennifer Hill said, yes, this part would be his property, this is Jerry Meade and then this starts the homes. We own an acre here and then there's homes all down here and this is a dead end.

Mr. Mohammed Idlibi said, I have a follow-up question for legal counsel or Susie Morris. You mentioned this is a straight, conventional rezoning. What is to stop us from placing conditions on the rezoning?

Ms. Susie Morris said, by nature of the request they are making, you cannot impose conditions and every single use that is in GI, is what you have to consider. So, if the board would like something different, then you would need to state that or in this particular case, see where it falls and then potentially come back. We cannot place restrictions on it. As far as the deed restrictions, that's going to be a private matter. The only thing we can enforce is the zoning ordinance or a conditional district, where it says, you can do these five things, but not these ten. Does that answer your question?

Mr. Brent Rockett said, it was mentioned earlier by Isaac, that there are some additional expenses incurred to go the route of conditional rezoning on this. Can you help me understand what those additional costs would be?

Ms. Susie Morris said, they would have to have a site plan. They would have to have their permits in place from those outside agencies because they are part of our review process. Typically, when the board approves a conditional district or a special use permit, the terms of those agency permits, also become terms of that agreement.

Mr. Brent Rockett said, so the majority of that is the administrative costs, essentially?

Ms. Susie Morris said, we need a site plan showing what they intend to do, their stormwater plan and their erosion control.

Mr. Brent Rockett said, those are the things they're required to do to get the site plan approval regardless of conditional use or conditional rezoning.

Mr. Jeff Corley said, I would add that is a heavy investment up front, not knowing if you're going to get the conditions approved.

Mr. Charles Paxton asked, would that figure be between 2 and \$300,000 in due diligence pursuit costs?

Mr. Charles Paxton said, our next person speaking against, would be Mr. Lee.

Mr. Bobby Lee (Measmer) said, my name is Bobby Lee. My address is 6251 Homestead Place, Concord, NC 28025. If we're talking about deed restrictions, there was one word that came out and it was, for now, we would get this rezoned. I'm taking a man's word just like we all are here together with you as a board. So just reiterating, what we've been through with Jerry Meade and other surrounding property stuff. I'm not saying he's going to do that now, but you say he needs a site plan, now he's going to go to

that ten acre site plan and open up to the next rezoning. Like I said, I trust a man for his word. I just wanted to bring up that wordage to make sure I did hear him.

The Chair called on Mr. Brian Cash to speak.

Mr. Brian Cash said, my name is Brian Keith Cash. I live at 1860 Mulberry Road, Concord, NC 28025, which is on the other side, but at the entrance into the landfill. I've been there since 1978, and I've seen out of these trucking companies is nothing but a hazard on the roadway.

I know you say he's going to have people parking their trucks there for two weeks. Have you ever been a truck driver? You stay in town and your truck breaks down, you're there for a long time. If you have two or three trucks broke down; a guy and his girlfriend or wife or a guy and his kids, they're going to be hanging out there. We already had a problem with getting up off Highway 49 onto Blackwell Road and Pharr Mill Road with trucks there, just taking over. All I can see is that the trucking companies are a problem for the area. I didn't know anything about this until I saw the sign, so I haven't been to any meetings. The people that are here; we've been neighbors forever. I know they've got to have the same concerns that I have about the roadway and I'm just going to leave it at that. Thank you for letting me speak.

Mr. Charles Paxton, Chair, said, hearing no more against it, I'm going to close the public hearing. At this time, the board will need to discuss this request. Do we have a rebuttal, Isaac?

Mr. Isaac Padgett said, I don't think so unless anyone has any more questions.

The Chair said, now we can go back to Jeff's comments.

Mr. Jeff Corley said, I appreciate everybody coming out. That was wonderful, civil conversation on both sides. Sometimes the process works, and this is what you end up with; seeing both sides of the issue and I think that's what this board is often faced with. A long history out there for sure. When I read through the district descriptions straight out of the zoning ordinance and the rationale for those districts; G1 is specifically for uses that could potentially cause nuisances and incompatibility. Putting a flat G1 on that property and not in some way mitigating those nuisances that the zoning ordinance pretty well predicts are likely to happen, I think is unreasonable. I think I would have a different opinion if this was a conditional request. The use, even though I think could create some additional nuisances, is potentially the same kind of nuisances you're

maybe already dealing with. I think we could put some conditions on that to mitigate those additional uses, as much as this board possibly could. Without that ability and going by what the zoning ordinance specifically says about these two districts, I feel is really incompatible and just does not provide that transition and exposes the surrounding area to those nuisances.

Mr. Mohammed Idlibi said, Jeff, I agree. If you take a look at the Area Land Use Plan, you see some intensity close to the interchange. Then you see that intensity kind of become less with the office and then you have the residential. I think that was the intended use. So, coming in with a straight, conventional rezoning, I think falls short of what the original land use plan was calling for.

Mr. Michael Bywaletz said, I will echo that sentiment. Having that transition that's already on one side of the road, taking a parcel and adding it in, I could see that expanding it further and taking away that transition into the residential, I just don't feel like it fits this.

Mr. Mohammed Idlibi said, I'd like to add that it sounds like for what I'm hearing that perhaps an industrial zoning there could work, but perhaps less intense and less type of nuisance that they perceive. It doesn't mean necessarily that it doesn't work. It just means some restrictions may need to be put in.

The Chair asked if there were any other comments.

Mr. Brent Rockett said, I'm a married man, so I'm open to correction. If I understand this correctly, there's no way that we can approve this and enforce that there be changes to the deed. While that promise verbally is good, there's no way for this board to enforce that. That is what becomes troubling to me; is that there's just no way to control and protect this property from a list of things I know I wouldn't want in my backyard.

Mr. Adam Dagenhart said, I would agree with what everyone is saying. Additionally, Susie stated as proposed, when you have the OI and the GI, the buffers and the access would not work, which would mean that this would be undevelopable without coming back before this board. We would be setting up the applicant to not be able to do anything with the rest of this property or sell it.

Mr. Mohammed Idlibi said, one more thing I'd like to mention is when you give deed restrictions, it's very difficult to reverse that. So, when we approve a rezoning, we could potentially in the future, rezone again. Once you have a deed restriction that runs with

the land, it's almost like legal acrobats that are being put in to find a solution when a conditional rezoning would be more appropriate.

Mr. Charles Paxton said I've been in Mr. Rodney's shoes. I know what he is talking about with this issue. I am sympathetic to that, but I'm equally sympathetic to the neighbors. I know what it's like to have trucks running up and down and causing an issue. Is there any way this can be tabled to a later meeting to allow for more discussion with staff or at some point work out a conditional situation?

Mr. Isaac Padgett said, we're willing to do that. We're willing to table it and go to the conditional district and come back.

Mr. Adam Dagenhart said, so if that's the case, then it would need to be denied and then re-applied as conditional use?

Ms. Susie Morris said, you all can table it for them to go back and explore the conditional district option. The outlier is that we don't know how long it will take them to get those documents together and to get that site plan together. We have a room full of people and we typically like to let them know when it will be back in front of a board. You can table it for a certain amount of time, if they're not ready, it can be tabled again. After that, they have to start over or you could ask the applicant to withdraw the application this evening and come back with a new application that better fits the discussion that you had this evening. We would need to have that on the record.

Mr. Mohammed Idlibi said, I would like to make a motion to table this rezoning based on the applicant's interest in doing so; so that they may can go back and take a look at the land use plan and perhaps provide something that is less intense that meets the standard.

Mr. Adam Dagenhart said, or should we allow the applicant to withdraw and then reapply either with the conventional or they can explore the conditional use. That way, everybody's not on the hook for when we're going to meet again for this particular item. I would leave that up to the applicant to make that decision.

Mr. Isaac Padgett said, yes, we're willing to withdraw and come back after we have an engineer nail down the conditional district. The cost to do that is very significant up front.

Mr. Mohammed Idlibi said, based on his withdrawal, I withdraw my motion.

Ms. Susie Morris said, if they hold it open, they will have to wait at least a year to come back if it was to continue on that same path and not be approved.

Mr. Charles Paxton said, if he withdraws, he has to wait a year?

Ms. Susie Morris said, no. If they withdraw versus the tabling, then that is not out there.

Mr. Charles Paxton asked if anyone was willing to make a motion?

Mr. Adam Dagenhart said, I think the applicant needs to come to the microphone to make that official.

Mr. Adam Dagenhart said, I have a question either for the applicant or the neighborhood. I know they were trying to do the five acres to appease the neighborhood. If they withdraw, would that open it back up for them to utilize the entire ten acres if they did a conditional use, and we applied conditions that both parties are comfortable with?

Ms. Susie Morris said, with that conditional district, the expectation from staff and county would be whatever that site plan is, that they hold another neighborhood meeting. That's part of the application and the paperwork that has to be turned in. At that point, that would give them the opportunity to mitigate any real or perceived concerns from the neighborhood. Then hopefully by the time that plan would come to the board, it is something that is palatable to both sides.

Mr. Bobby Lee said, I want to ask a question if I can. Looking at OI, we're talking about conditions on a harsher zoning where it's already Office/Institutional. I'm going to try to do a reverse of this and I'm sure there's some kind of law against it, but there's a law against everything. He's basically wanting a service shop. That's the only thing that can't go on in Office/Institutional. I've got a garage in my backyard, where I work on two race cars. I change oil, we do all kinds of stuff. Yes, I want to work with Rodney, but we're talking about a harsher zoning and putting conditions on the man's property. Why can't you allow him to have a service shop that's no different than my 30' x 40' shop, but it stays Office/Institutional. It should save you some money because you're not going to get it rezoned. Anyway, just something a crazy redneck is sitting over here thinking about.

Ms. Susie Morris said, based on the uses that are being proposed, the way that we have to classify them in the ordinance, I think one could have gone into LI, but he's also trying to do the logistics support and the parking, which is GI. We haven't got to the point of a

site plan and whether or not they can do it. Initially, that is what staff suggested, but they wanted to try this route first. It's based on where the classifications of those uses are. Office/Institutional; that's our offices, that's our schools, that's our churches. That's not repair shops, that's the transitional district in between. Mr. Measmer's point is he is talking about an accessory use at his home. That's an accessory building. This is someone trying to come in with a primary use, so it's a little different.

Ms. Jennifer Hill said, if we do conditions and he comes back, is it held to that site plan?

Ms. Susie Morris said, if they decide to pursue a conditional district, that essentially becomes a mini-zoning ordinance for that property and there's also a site plan that goes along with it.

Mr. Mohammed Idlibi said, and some conditions, right? A conditional restriction?

Ms. Susie Morris said, that's where it's like a mini-zoning ordinance. If there are ten uses that are allowed and they shorten it to five, then those are the only things that can happen there. It has to look like that site plan. If it does not, they have to come back to the board for approval.

Mr. Charles Paxton said, at this point, Mr. Padgett, the ball is in your court.

Mr. Isaac Padgett said, we would just like to withdraw the application and bring back the conditional district application at a later date. Thank you for your time.

Mr. Brent Rockett **MOTIONED, SECOND** by Ms. Holly Edwards, to **ACCEPT** the withdrawal of the application. The vote was unanimous to **ACCEPT** the withdrawal.

Mr. Jeff Corley said, apparently there were some issues with notification, and I don't know if that is simply the non-contiguous bordering properties. I guess a new sign will go up when they're ready to come back. I just want to make sure we have a chance to get everybody back to have this discussion.

The Chair told the applicant and the members of the audience that they were free to leave and called on Mr. Douglas Hall, General Counsel, to give a legal update.

LEGAL UPDATE

Mr. Douglas Hall said, we do have a number of things we're working on; some of the older cases that we're trying to tamp down. We've actually made a lot of progress. I'm going to try to get with Susie in the next day or two to have her review some letters and

some lists we're sending out. We're trying to get more organized on marshalling fire violations, code violations, planning and zoning violations with one meeting, one letter, and one lawsuit if it's something that has to go to court, instead of doing a piece meal. For example, I'm going to talk to Susie tomorrow about a problematic situation where Code and Fire have been out there and said yes, we can get this fixed. That can satisfy us, but I'm not sure it can satisfy planning and zoning. We need to have a unified approach. As J.T. and I were talking, he said, I don't want this guy to do anything. He can make me happy, but if he can't make Code happy and he can't make Zoning happy, there's no point in doing it. So, we're trying to take that approach, and we've got several older cases, where maybe it was percing on a planning and zoning issue, but now we realize there were some other code issues, too. Then there's fire issues and they haven't been out there, so we're trying to bring them in when we need to, or if J.T. has something come up, then bring Susie in to make sure she's aware of it. I feel good about what we're doing. Since I'm new, I'm trying to do what I'm told and that's what I've been told to do, so that's what we've been doing, and I think it's going well. Thank you.

The Chair called on Ms. Susie Morris, Director of Planning and Development, to speak.

DIRECTOR'S REPORT

Ms. Susie Morris said, a lot of those cases we've been dealing with, came before you during the pandemic and then they said oh no, just kidding, we want to table it, or we want to withdraw. They still haven't corrected those issues, so some of those are still outstanding. We are trying to do that more coordinated effort, because as you all know, when it comes down to it, zoning has the least amount of power of anybody to try to get somebody to do something. When the fire marshal comes and tells you they're going to pull the power, that typically gets people's attention. So, we're trying to have this more coordinated effort, especially if we have to put it in front of a judge. The way this came up is we had a case we were getting ready to file. Evan had the case ready, and he passed it over to Doug and he said, wait, why does this just have zoning? I thought you said there were other things. So, after this realization, everyone just wants to push everything back on zoning like we're the bad guys. It's not always about just zoning.

For our two members that went to the training, do you have anything you would like to report to the other members?

Mr. Mohammed Idlibi said, it was excellent. Next time you get a chance, make sure you try it.

Ms. Susie Morris said, they finally have two new videos out there, but I can't access them because of the way they have them set up. So, I'm trying to work through that with the School of Government. Hopefully, they will get that worked out. You know how when you first came on the board, you would get the link and go to the video, then would give us the screenshots that you completed them. They are currently unable to do that with the way they have it set up in Canvas; that's what they use for the students. So hopefully, we will have an answer back soon about how we can share that new information out with you. That's all that I have.

Mr. Charles Paxton, Chair, asked if anyone would like to entertain a motion to adjourn.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Mohammed Idlibi, to **ADJOURN**. The vote was unanimous to **ADJOURN** at 7:44 pm.

APPROVED BY: Charles Paxton, Chair

Charles Paxton

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

Lisa Johnson

ATTEST BY: Susie Morris, Planning & Development Director

Susie Morris