

**Guilford County  
Planning Board  
DECEMBER 12, 2018**

The Guilford County Planning Board met in regular session on Wednesday, December 12, 2018 at 6:00 p.m. in the Blue Room, First Floor, Old Guilford County Courthouse, 301 West Market Street.

**Members Present:** Mr. Jones, Chair; Mr. Leonard; Ms. Hayworth; Mr. Alexander; Mr. Mann; and Mr. Thompson.

**Members Absent:** Ms. Burnett, Mr. Apple, and Mr. Geter.

**Staff Present:** Matt Talbott, Oliver Bass, and Tonya Hodgin -- Planning Department; Stephen Thomas, Guilford County Fire Marshal's Office; and Leslie Bell, Guilford County Planning Director.

Chair Jones called the meeting to order and welcomed everyone in attendance.

**AGENDA AMENDMENTS:**

None.

Chair Jones explained the rules and procedures of the Guilford County Planning Board.

**APPROVAL OF MINUTES: November 14, 2018**

Ms. Hayworth moved approval of the November 14, 2018 meeting minutes, seconded by Mr. Alexander. The Board voted unanimously in favor of the motion.

**CONTINUANCE REQUESTS:**

Chair Jones stated that in their letters to the Board, there has been a request from Geneva Corporation for a continuance in Case # 18-11-GCPL-07016. He asked the applicant of this case for his response in terms of this continuance request.

Henry Isaacson, 804 Green Valley Road, Attorney, was representing the applicant, IJN. Mr. Sam Saba is the sole owner of that LLC. Mr. Isaacson asked the Board to hear their case at tonight's meeting. He spoke with one of the opponents on November 28, 2018 giving him notice about the case, and the neighbors who are on the County's list of notification have been contacted. They have had negotiations with the opponent's counsel and unfortunately, a resolution was not reached. They are prepared to go forward and would prefer to have their case heard tonight.

Alex Elkin, 230 North Elm Street, is an Attorney representing the Geneva Corporation and its affiliate corporations. He submitted a letter to the Board on behalf of Geneva Corporation, as well as a similar letter from Mack Trucks, requesting a continuance of this case. Mr. Elkin felt that if provided additional time, they might be able to come to a resolution with the opposition. They are prepared to present their case tonight; however, they would prefer to continue this matter until the next regular meeting.

It was the consensus of the Board to proceed with this matter and to hear the case tonight.

## **OLD BUSINESS:**

### **REZONING CASE #18-10-GCPL-06582:**

Located on the west side of Doggett Road, approximately 500 feet south from its intersection of Beckett Road in Monroe Township. Being Guilford County Tax Parcels #0129632, #0129636, #0129691 and # 0129648, approximately 112.61 acres owned by Wesley and Leonor Doggett.

**(APPROVED)**

Oliver Bass, Planning Department, stated that this is a request to rezone approximately 112.61 acres from AG (Agricultural District) to RS-40 (Residential Single-Family District). The AG district is primarily intended to accommodate uses of an agricultural and farming nature. It is not intended for major residential subdivisions. The RS-40 district is primarily intended to accommodate single-family detached dwellings on large lots. The property is owned by Wesley and Leonor Doggett and is located on the west side of Doggett Road, approximately 500 feet south from its intersection of Beckett Road in Monroe Township. It includes Guilford County Tax Parcels #0129632, #0129636, #0129691 and #0129648. The area is primarily low-density residential and large undeveloped parcels. The adjacent parcels east of the site are encumbered in association with the Greensboro Lake Townsend project. The existing land use on the property is large-acre residential and undeveloped. The surrounding property is mostly agricultural and large-lot residential to the north; major single-family subdivision to the south; residential, minor subdivisions to the east; and the property to the west is encumbered by an easement from the City of Greensboro.

The land use plan is the Northern Lakes Area Plan 2016 Update. The plan recommends for AG Rural Residential (AGRR). Staff finds that the RS-40 zoning is consistent with the AGRR future land use designation. The AGRR district is intended to accommodate low-density residential areas not served by public water and sewer at a maximum density of 2.0 dwelling units per acre. The RS-40 zoning district allows major subdivisions at a maximum density of 1.0 dwelling unit per acre and without public water or sewer. Staff recommends approval of this request. The request is consistent with the land use plan and in keeping with development in the area. No land use plan amendment is required if the rezoning is approved.

Mr. Bass said that members are in receipt of an additional letter from the applicant summarizing a meeting that was held with adjacent land owners.

### **Speaking in Support:**

Jay Matey, 8642 West Market Street, is with the Timmons Group. He said the applicant did hold a meeting with the adjacent property owners following last month's hearing. The sign-in sheet and summary of comments made at the meeting have been included in members' packets. The applicant provided more clarity as to the nature of the request as well as how the critical watershed area plays into the practical density that can be achieved. Concerns mentioned by neighbors included traffic, and well and septic issues.

Mr. Matey said that the property is about 113 acres and because of the critical watershed tiers that run through the property, they are limited to a density of 43 lots per the ordinance. They are asking for a much less dense development than this rezoning would allow. This is the least dense residential zoning district that was available to them.

Addressing traffic concerns, Mr. Matey said that Doggett Road is a two-lane rural road that is classified as a Minor Thoroughfare. The average daily traffic on that road in 2013 was 1,300 vehicles per day. The proposed development with 43 single-family residential lots would result in an additional 478 trips per day. North Carolina Department of Transportation (NCDOT) considers 10,500 trips per day as

practical capacity on this road. The roads are currently operating at 12 percent of practical capacity and with the proposed project, the road will operate at approximately 17 percent of practical capacity. Therefore, the road will be well below the capacity set forth by NCDOT. They will need to obtain a driveway permit for the project and the State will require a safety assessment for turn lanes, intersections, driveways, and visibility which will allow the connection point to operate in a safe manner.

Another concern expressed by residents involved the potable water well that will be installed in each of the lots in this well and septic subdivision. Since they are effectively 2.62 acres per lot, that is well above the typical threshold for wells. Mr. Matey does not feel that anyone's existing well would be adversely affected by the project. In addition, the well and septic systems will have to be permitted through the County and specific rules would have to be followed.

Mr. Matey stated that the neighborhood also expressed concerns about the creation of a connection Throwbridge Drive. Although this matter will have to go through the development process, the applicant has no intention of proposing a connection. Chair Jones clarified that in terms of review, the Board has no authority to approve a specific site plan tonight. The Board's review determines whether or not this request is consistent with the plan for this portion of the county as well as compatibility with surrounding uses. The site plan process goes through County staff.

Mr. Matey said that other concerns were brought up at the meeting such as covenants, types of homes, price ranges of proposed homes, and landscaping on Doggett Road. The meeting summary distributed to Board members describes the input provided by the applicant. He stated that their responses are subject to change depending on what the market can bear once the lots are ready for construction. They are envisioning a low-density residential subdivision ranging in lots from over an acre to over 10 acres. The range of lot sizes is necessitated by the critical watershed requirements.

### **Speaking in Opposition:**

Herb Parks, 7-B Corporate Center Court, was representing the Simms estate, the trustee of the estate, which is the northern tract just above the subject property. This property to the north is classified as a bonafide farm. He asked that the General Statutes that relate to the bonafide farm be put on the plats if this is approved. A buffer is required between the northern tract and the subject property. At the meeting, it was presented that the property perks and is mostly drainage fields. The neighbors would appreciate the creation of a buffer around the property of as much as 300 feet which would still allow the applicant to achieve 43 lots on the site. In addition, if the applicant went to a community well, there would be less impact on the environment. They would like to work with the developer to create a buffer and a community well. He felt that a stub to the north might be required by the County for purposes of connectivity.

Randall Myers, 2807 Brookledge Court, Brown Summit, North Carolina, thanked the applicant for meeting with the neighborhood. He stated opposition to the project due to traffic concerns and access into the neighborhood. He described dangerous road conditions in the area and felt that the proposed development would only add to the problem. He expressed concern that the potential water situation would cause the development to be pushed forward into a cluster resulting in a well on every acre. They would have problems getting water because they are on the downhill side. In addition, he noted that this is a critical watershed area that needs to be protected. He questioned the outcome if more and more farmlands are moved over to residential uses. He asked the Board to consider keeping this site as farmland.

Casey Councilman, 7723 Beckett Road, referred to the map and expressed concern about a dead-end portion of Beckett Road where many speeding drivers realize they are no longer on Doggett Road

when they run out of pavement and dangerously brake their car and skid to stop. He does not necessarily oppose the development but this is a dangerous intersection and he asked if NCDOT could look at this area because children play on this road.

**Rebuttal in Support:**

Mr. Matey felt that the applicant would be willing to sit down and determine if there are ways to provide better synergy between the development and the bonafide farm.

**Rebuttal in Opposition:**

None.

There being no other speakers, Mr. Mann moved to close the public hearing, seconded by Mr. Thompson. The Board voted unanimously 6-0 in favor of the motion.

**Discussion:**

Chair Jones commended the applicant for having a meeting with neighbors following the last hearing. Most comments he heard tonight were not necessarily opposing residential use for the subject property which is the same zoning as the property adjacent to it to the south. He stated his support for the rezoning with the understanding that there is a lot more that has to happen such as the review process, the site plan layout, etc.

Mr. Leonard noted that only one page of the purchase agreement was included in the packet. He asked staff if the application was complete. Staff indicated they were satisfied that the application is complete. Chair Jones asked staff to provide the first page and the signature page of agreements in the future.

Ms. Hayworth said she was pleased that a neighborhood meeting was held. She plans to support the request as it appears a lot of concerns and questions have been addressed.

**Motion:**

Mr. Alexander moved to **Approve** this zoning amendment located on Guilford County Tax Parcels #0129632, #0129636, #0129691 and #0129648 from **AG** to **RS-40** because:

1. The amendment **is** consistent with applicable plans because:

An RS-40 zoning is consistent with the AGRR future land use designation. The AGRR is intended to accommodate low-density residential areas not served by public water and sewer at maximum density of 2 dwelling units per acre. The RS-40 zoning allows major subdivisions at a maximum density of 1 dwelling unit per acre and without public water or sewer.

2. The request **is** reasonable and in the public interest because:

It is in the public interest by allowing future housing consistent with the development patterns established on adjacent parcels and in the vicinity.

The motion was seconded by Mr. Mann. The Board voted unanimously 6-0 in favor of the motion. (Ayes: Jones, Leonard, Hayworth, Alexander, Mann, Thompson. Nays: None.)

## **NEW BUSINESS:**

### ***Public Hearing Items:***

#### **CONDITIONAL ZONING CASE #18-11-GCPL-07016: CU-LI to CZ-LI**

Located north of the intersection of National Service Road and Piedmont Triad Parkway in Deep River Township. Being Guilford County Tax Parcel #0169748, approximately 0.97 acres owned by IJN Properties, LLC.

#### **(APPROVED)**

Oliver Bass said that this is a request to rezone the property from CU-LI (Conditional Use-Light Industrial) to CZ-LI (Conditional Zoning-Light Industrial). The request is to replace the existing conditions on the site development with the proposed conditions described herein. The base zoning district will remain LI, Light Industrial. The property is within the I-40 West Scenic Corridor.

The LI district is primarily intended to accommodate limited manufacturing, wholesaling, warehousing, research and development and related commercial/service activities which, in their normal operations, have little or no adverse effect upon adjoining properties.

The CZ district is established as a companion district for every district established in Section 4-2. All regulations which apply to a general use zoning district also apply to the companion conditional zoning. All other regulations, which may be offered by the property owner and approved by the Jurisdiction as part of the rezoning process, also apply.

The Scenic Corridor Overlay Districts are established to address the following issues: (1) The arrangement of land uses along the corridor which will create a visually pleasing impression; (2) The unique qualities of the corridor, such as landmark buildings, views and vistas, and natural features which merit special consideration or protection; (3) The value of the corridor as an entryway to Guilford County which can influence the perception of individuals or firms considering residence or investment in the community; (4) The location, size, shape, illumination, spacing, and number of signs; and (5) Transportation, including vehicular access, dedication of right-of-way, driveway limitations, and traffic impact.

The existing development condition on the site, per Case #07-10-GCPL-07156, is that (1) There be no corrugated metal building.

The proposed development condition is: (1) To increase planting yard along I-40 to a "Type C" landscape buffer; (2) See attached Proposed Site Plan prepared by Kim R. Lilly, dated 11-07-18; (3) Any building on the subject property shall be painted an earth tone color; and (4) Remove existing condition that prohibits corrugated metal buildings.

The owner of the property is IJN Properties, LLC. The property is located north of the intersection of National Service Road and Piedmont Triad Parkway in Deep River Township, being Guilford County Tax Parcel #0169748. The area is primarily industrial or light manufacturing. The land use on the existing property is billboard or undeveloped. Surrounding properties are I-40, industrial, and public to the north; undeveloped and light industrial to the south; undeveloped to the east; and industrial to the west.

A general overview map of the area was presented by staff to illustrate the location and building materials of buildings that exist on National Service Road in relation to the subject property. Mr. Bass noted some of the properties that contain some corrugated metal. These properties are located mostly to the west of National Service Center Drive. The building on the same block as the subject property is mostly brick.

The subject property is located within the Airport Area Plan. The Airport Area Plan recommends for nonresidential use. The descriptive title of nonresidential supports the development of industrial and other nonresidential land uses in the general area. The proposed zoning is consistent with the Airport Area Plan recommendation for nonresidential land uses. The request is reasonable and in the public interest because: (1) The proposed conditions are designed to address one or more of the issues that are the foundation for establishing scenic corridors listed in the land development ordinance; and (2) The application will not change the types of land uses that are currently allowed on the site and that exist in the general area. Staff recommends in favor of approving this request. No amendment to the area plan would be necessary if this request is approved.

Ms. Hayworth asked how long the condition prohibiting corrugated buildings on the site has been with this piece of property. Mr. Bass said that the condition was originally approved in 2207.

**Speaking in Support:**

Henry Isaacson, Attorney, 804 Green Valley Road, requested that an additional condition be introduced as follows:

**New Condition:**

*#5. Applicant will plant and maintain a row of Leland Cypress Trees or their equivalent on its property along National Service Road to act as a screen for any structure or structures on the subject property to the extent possible.*

Chair Jones asked staff if the new condition was adequate in terms of its language. Leslie Bell, Guilford County Planning Director, replied in the affirmative.

Mr. Leonard moved to approve the addition of the condition, seconded by Mr. Alexander. The Board voted unanimously 6-0 in favor of the motion.

Mr. Isaacson presented letters to the Board from Kevin Baker and James Anthony, who are neighbors in support of the request.

Mr. Isaacson was representing IJN Properties, a small LLC owned by Sam Saba. He introduced Mr. Saba who stood to be recognized. Mr. Saba drives tractor trailers for and under contract with Federal Express Ground out of Greensboro and Kernersville. He owns five tractors and FedEx furnishes the trailers. Mr. Saba needs a place to keep his vehicles safe when they are not on the road. He purchased this small parcel on National Service Road because of its location near both the airport, where FedEx Express is located, and FedEx Ground, which is located in Kernersville. When he bought the property it had a zoning condition which prohibited metal buildings. Mr. Isaacson was uncertain why the condition was placed on the property because all the buildings in the vicinity on National Service Road are constructed of prefabricated metal except for one and that building is constructed of cinderblock and painted white with red stripes. If allowed, Mr. Saba would choose to have prefabricated metal for this site and for his building. In order to eliminate the condition regarding building materials, Mr. Saba has agreed by conditions to paint his building an earth tone color, add additional buffering 15 feet wide along I-40 and other areas as well, and to make the site plan a condition of the rezoning.

Mr. Saba is a small business man who would like to have his workshop as close to his client, FedEx, as possible. This is a less than one acre site and the building would be 5,600 square feet. He needs his own building to work on the tractors whenever they need servicing and/or cleaning, and to keep the

vehicles safe. All service will be inside behind closed doors. He is willing to buffer his land beyond the County's requirements, to paint his building an earth tone color, and to add the condition to install a buffer of Leyland Cypress trees. If this request is approved, Mr. Saba's property will not be out of sync with nearby properties.

Mr. Isaacson distributed and reviewed booklets of information about the request for the benefit of Board members.

Tom Taylor, 409-D Parkway Street, is a real estate appraiser. He gave an overview of his method of appraisal along with surrounding properties. He examined the sale of a building across I-40 and the metal buildings that surround it and found that those metal buildings had no adverse effect on the sale. He also noted that when going west on National Service Road, there are three large buildings that all front I-40. These buildings are within a few hundred yards of the subject property and they are all corrugated metal buildings or pre-engineered steel buildings. What Mr. Saba is proposing to build is already in the neighborhood and based upon his examination of the property that sold across I-40, he cannot find any reason why this proposed building would impact any adjoining properties. He stated his opinion that the proposed building will not be an imposing property nor will it be any kind of property that will have an adverse effect on the neighborhood.

Ms. Hayworth cited properties around the subject property and asked if they had the same condition prohibiting metal corrugated buildings. Staff indicated that surrounding properties did not have the same condition. Ms. Hayworth questioned how the property got this condition if none of the surrounding properties had it. Mr. Bass said that the condition for no corrugated metal buildings was proposed for that piece of property by the owner/applicant in 2007 but he could find nothing in the minutes of the hearing that explained why it was proposed.

### **Speaking in Opposition:**

Alex Elkin, Attorney, 230 North Elm Street, is representing Geneva Corporation and its affiliated entities. He distributed notebooks of information relative to the request. Whereas the proponents discussed properties across I-40 and to the west of the subject property, Mr. Elkin talked about properties east and southeast of the subject site. The Volvo, Mack Truck, Frito Lay, and Geneva properties are located in that area. These properties were developed with private restrictive covenants that were associated with them including design elements, construction requirements, and prohibition of corrugated metal buildings among many others. All of the buildings developed with these restrictive covenants are high quality, brick buildings that are office facilities and light industrial. The concern of Volvo, Mack Truck, Frito Lay, and Geneva is that there is a lesser quality development coming in. Despite conversations with Mr. Isaacson, they were unable to come to a resolution. The applicant is coming back with a similar proposal to the one presented in 2007 seeking to remove the one condition that was agreed upon then which was the prohibition of corrugated metal buildings.

Mr. Elkin referred to additional condition #5 and felt it was appropriate to request that the last phrase "to the extent possible" be struck out.

Phil Fowler, President of Geneva Corporation, 815 Piedmont Triad Parkway, distributed pictures of the 100,000 square foot Geneva Corporation building on 18 acres of property and the adjacent Volvo property. Volvo bought 35 acres of property in 1982 to develop a campus to control the quality of the business atmosphere. The covenants associated with the campus require that repairs cannot be visible, buildings must be built of masonry, etc. He explained that the Frito Lay building, the Geneva building, and the Volvo office building were also built to these covenants to create a unique but contiguous landscape and building architecture. The Geneva property was purchased and built in 1999. He described the unique location of the subject property and said it seems incongruous for the

County to change a zoning regulation on a sliver of land that penetrates another part of the county that is incorporated which has specific guidelines. He felt that high yearly tax bills and what has been done on the corporate properties should be respected and considered. He welcomed the proposed business but felt the building should be made of brick with a brick screening wall in front in keeping with the other properties. He felt it was unfair to the spirit of the development over the last 20 years that they should have to look at a corrugated metal building across from them even with the proposed screening in front of it. The buildings that were previously described that are related to corrugated buildings are located completely to the west and none affect the visibility, continuity, and covenants that the entire park was developed with. The subject property overlaps and is located near the entrance to the campus and is a concern.

Ms. Hayworth asked Mr. Fowler if it would be satisfactory for the proposed building to have a brick façade to face National Service Road but was metal back toward the highway. Mr. Fowler said that it would depend on the layout of the building and he noted that a brick screening wall for outside equipment was also one of their requests. Chair Jones pointed out that the Board cannot impose brick conditions in this matter.

Mr. Fowler said that this is an issue of a corrugated metal building in a business park that has covenants and the proposed zoning would change the current zoning on a sliver of land that abuts the business park, fellow citizens, the City of High Point. He confirmed for Mr. Mann that the restrictive covenants he described earlier do not cover the subject property. Therefore, Mr. Fowler felt it was the Board's responsibility as to whether or not they want to allow corrugated metal buildings against other zoning areas within the County within an incorporated piece of land.

#### **Rebuttal in Support:**

Sam Saba, 2936 Glen Eagle Court, High Point, North Carolina, said he was concerned that the opponents said Volvo Trucks was opposing this request. He referred to the map which showed that Volvo Trucks put a facility there that is an 85 percent metal building. If Volvo cares about the area, why would they put a dealership two doors down from his site with a mostly metal building? In addition, he pointed out that none of the surrounding sites have a restriction except his site. He asked why he was the only property with a restriction.

Mr. Isaacson referred to pictures in the booklet distributed to members and pointed out that the Volvo Trucks facility referred to by Mr. Saba is for the repair of tractors and has 20 bays, 10 on each side. The facility is made out of corrugated metal. The pictures represent Volvo's investment along National Service Road in the neighborhood. Mr. Saba is not interested in effecting anything on Piedmont Triad Parkway; however, the corrugated metal buildings are very evident along National Service Road. Mr. Isaacson did not feel that this one building of 5,600 square feet is going to cause that much difficulty and effect financially or aesthetically anything that is going on south of National Service Road. They tried to resolve this matter with the opponent but they do not feel that putting up a brick building and brick wall where there is metal next door in the neighborhood is the answer.

Members discussed Mr. Fowler's request to strike a portion of approved additional condition #5 submitted by Mr. Isaacson. It was felt that the wording "to the extent possible" was too vague and was not enforceable. Mr. Isaacson agreed to remove the wording "to the extent possible" in the condition but explained that they want to screen the building with the best of intentions.

Mr. Thompson moved to amend additional condition #5 and strike the wording "to the extent possible", seconded by Mr. Leonard. The Board voted unanimously 6-0 in favor of the motion.

#### **Rebuttal in Opposition:**



Mr. Fowler clarified that there are no metal buildings in their neighborhood. He referred to the map and described the area that encompasses his neighborhood. The facility that Mr. Saba described is an independent Volvo dealership that is not in the neighborhood with covenants and restrictions.

Ms. Hayworth asked about the history around the condition prohibiting corrugated metal buildings when this property was rezoned in 2007. Staff said that there is nothing in the minutes from the 2007 hearing to indicate why the restriction was requested. When asked if he had any insight into the reason for the condition being added in 2007, Mr. Fowler said that he did not recall receiving any notices about what went on at that hearing.

There being no other speakers, Ms. Hayworth moved to close the public hearing, seconded by Mr. Mann. The Board voted unanimously 6-0 in favor of the request.

### **Discussion:**

Members felt that there was a reason that the condition was put in place in 2007. Staff would not have recommended the condition if there was not a reason for it.

Mr. Bell commented that the condition could have been brought by the applicant as well. The minutes do not provide detail as to why the condition was requested.

Mr. Leonard felt that the applicant has a reasonable use for this very small parcel.

Although Mr. Mann understood the restriction, especially with the surrounding areas, he acknowledged that the applicant is bringing in a business that will improve the area. He did not want to stop that from happening based on the brick issue. If a totally restrictive covenant controlled all of the area, it would be hard to approve the request.

Mr. Leonard pointed out that the Board cannot really look at why a restrictive condition was placed on the rezoning in 2007 because these times are different. The economic situation in 2007 was completely different than it is today. Staff cannot determine why the condition was placed on the request and the Board can only speculate as to why it was done.

Mr. Thompson agreed that everything south of the highway and east of Piedmont Triad Parkway is a beautiful development. He also felt that neighborhoods have to begin and end at some point and this is a very clear ending of the neighborhood. This was reinforced to him when the opponent came forward and said they bought Parcel B as a buffer for their neighborhood. Now they are looking at a different neighborhood with Parcel A going west and north that is more industrial with steel and concrete block buildings and vacant land at Parcel E. The roads form a natural buffer with the "T" at National Service Road and Piedmont Triad Parkway and the buffer that Geneva Corporation has. He felt that building a corrugated metal building on Parcel A will not impair or take away from everything that is to the neighborhood in the southeast. He was inclined to approve this request.

Chair Jones said he had the impression that the condition from 2007 was the product of significant negotiations with major stakeholders in the area; however, he has not heard that confirmed tonight. Even if it was confirmed, he agreed with Mr. Leonard that economic situations have changed. If it wasn't for the site plan, he would have much more difficulty making a decision but with the "T" intersection and the property being to the left of the "T" and looking at what is on the Piedmont Triad property, he is leaning toward approval.

Chair Jones asked staff if the site plan needed to be revised to incorporate the additional condition that was considered to reflect condition #5. He did not want to approve something that cannot be enforced because the site plan does not show condition #5. Mr. Bell clarified that all along National Service Road where there is a mixture of canopy, understory and shrubbery, all of that from east to west would be Leland Cypress. Chair Jones said that one condition is to approve the site plan and another condition is that they would plant Leland Cypress which is not shown on the site plan and therefore, may not be enforceable.

**Motion:**

Mr. Mann moved to **Approve** this zoning amendment located on Guilford County Tax Parcel #0169748 from **CU-LI** to **CZ-LI** because:

1. The amendment **is** consistent with applicable plans because:

The proposed zoning is consistent with the Airport Area Plan recommendation for nonresidential land uses.

2. The request **is** reasonable and in the public interest because:

The proposed conditions are designed to address one or more of the issues that are the foundation for establishing scenic corridors listed in the land development ordinance.

The conditions include:

- (1) Increased planting yard along I-40 to a "Type C" landscape buffer.
- (2) See attached Proposed Site Plan prepared by Kim R. Lilly, dated 11-07-18.
- (3) Any building on the subject property shall be painted an earth tone color.
- (4) Remove existing condition that prohibits corrugated metal buildings.
- (5) Applicant will plant and maintain a row of Leland Cypress trees or their equivalent on its property along National Service Road to act as a screen for any structure or structures on the subject property. There is a minimum requirement of two Leland Cypress trees or its equivalent per 100 feet of street footage.

The application will not change the types of land use that are currently allowed on the site and that exist in the general area.

Chair Jones made a friendly amendment that condition #2 concerning the site plan will be revised to provide that it is subject to revision to incorporate condition #5.

Mr. Mann accepted the friendly amendment, and the motion was seconded by Mr. Thompson. The Board voted 5-1 in favor of the motion. (Ayes: Jones, Leonard, Alexander, Mann, Thompson. Nays: Hayworth.)

Chair Jones recognized County Commission Branson who was in the audience. He thanked Commissioner Branson for attending the meeting.

A five-minute recess was taken.

**CONDITIONAL ZONING CASE #18-11-GCPL-07117: AG &HB to CZ-HB**

Located northeast of the intersection of Alamance Church Road and Old Julian Road in Greene Township. Being a portion of Guilford County Tax Parcel #0110908, approximately 2.44 acres owned by Connie Lakey.

**(APPROVED)**

Mr. Bass said that this request is to rezone approximately 2.44 acres from AG (Agricultural District) and HB (Highway Business) to CZ (Conditional Zoning) - HB (Highway Business) with conditions. The AG district is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It is not intended for major residential subdivisions.

The HB district is primarily intended to accommodate retail service and distributive uses which are typically located along thoroughfares. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. Developments in this district generally have substantial front setbacks.

The CZ district is established as a companion district for every district established in Section 4-2. All regulations which apply to a general use zoning district also apply to the companion conditional zoning. All other regulations, which may be offered by the property owner and approved by the Jurisdiction as part of the rezoning process, also apply.

The applicant also proposed use conditions that it be limited to department, variety, or general merchandise which is a use permitted in the HB zoning district.

The property is owned by Connie S. Lakey and located northeast of the intersection of Alamance Church Road and Old Julian Road in Greene Township, being tax parcel #0110908. The subject property is at the crossroads of Alamance Church Road and Old Julian Road. That intersection has developed commercially west of Old Julian Road. The existing land use on the property is vacant commercial buildings. Surrounding uses are undeveloped to the north and south, undeveloped/large-acre residential to the east; and commercial/utilities to the west.

This property is located in an area that is not covered in any of the County's land use plans. Therefore, there are no recommendations in terms of land use that relate to that particular property. The subject property is not covered in any of the County's adopted area plans. The request is in the public interest through the provision of retail services to area residents: (1) The proposed rezoning would extend the current HB zoning to approximately 2.44 acres of the existing parcel; (2) The parcel is at the crossroads of Alamance Church Road and Old Julian Road. Both are designated thoroughfares; (3) Those parcels west of Old Julian Road have developed commercially under the HB zoning; and (4) The use is limited to Department, Variety, or General Merchandise Retail, which is compatible with uses in the general area. Staff recommends in favor of approving this request. No Area Plan Amendment is necessary for this request if approved.

**Speaking in Support:**

Daniel Armazon, 1970 Derita Road, Concord, North Carolina, was representing Teramore Development. He distributed information relating to the request to Board members. This parcel is already split in half with HB zoning. The site plan also shows that their building would have been incorporated into the HB zoning portion of the parcel. Unfortunately, a portion of the parking lot and retention pond would have pushed outside into the AG zoning which is why they are requesting this rezoning. Prior to submitting the application, they sent out notices to all of the owners who live 1,500 feet from the property for purposes of a community meeting. Approximately 36 community members

showed up at the meeting as well as County Commissioner Branson. At the meeting there were many questions and several concerns. One of the concerns involved traffic. He explained that the plan had already been submitted to NCDOT for review and because of their traffic counts on Alamance Church Road, they asked that the entrance to the development be moved to Julian Road. The site plan reflects the entrance on Julian Road. Traditionally Dollar General Stores work off of existing traffic flow and their impact is usually 7-10 cars per hour of increased traffic flow which is not a large amount. Another question involved lighting. Low-intensity lighting will be used because they do not light the parking lots at Dollar Generals. The wall packs only illuminate the side of the building and walkway. The hours of operation are from 8:00 a.m. until 10:00 p.m. and there are no lights after those hours. There were also questions about whether or not the property perked. They had a Level 4 soil test done that confirmed the soil can be perked. The site plan will be modified to show that the septic will move to the southeast corner of the property at the front where the soil perks. The retention pond will be moved closer to the parking lot that will serve to double the buffer shown on the plan. They will have no need to tear down any trees. The building will be a pre-fabricated engineered building which is traditionally used by Dollar General. An opaque fence will be added around the building.

Connie Lincoln, 3409 Alamance Church Road, indicated that this is her property. The building on the property has sat vacant but it used to be a beauty shop. She spoke with a lot of people in the neighborhood who said they would be pleased to have something like a Dollar General there because of the supply of food products they carry. She felt that the store would help the neighborhood to develop and grow.

#### **Speaking in Opposition:**

Robin Heath, 3327 Alamance Church Road, lives on the corner opposite of the proposed Dollar General. She spoke with many neighbors today who did not know about tonight's meeting. They would have attended if they had known about the meeting. Everyone she spoke with is in opposition to this request. There is a BP store across the street where staples can be purchased. About two miles down the road is another store/gas station that has staples and food that can be purchased. They are 10 minutes from Walmart, Food Lion, and another Dollar General where all necessities can be purchased. The meeting was held with the neighborhood on November 8, 2018. She said there are constant accidents at the intersection and the increase in traffic will result in increased accidents. She did not feel that this area was not the right spot for another Dollar General. She asked the Board to consider denying the request. She offered the following conditions if the Board does decide to grant the request: (1) No deliveries between midnight and 6:00 a.m.; (2) No trucks; (3) Make the facility look like a country store; (4) No lights after 10:30 p.m.; and (5) Installation by the State of a traffic light at the intersection. In addition, Ms. Heath commented that they want to take property as a right-of-way from people who have had the property in their families for generations. They should not have the right to take up that property as a right-of-way to put in the store on the other side of the street. If they need a right-of-way, let them take it up on the side of the street where they proposed building will go.

Russ Welker, 3331 Alamance Church Road, said that he also owns property at 3932 Old Julian Road. His family has been in this area for 160 plus years. The subject property is a low-lying area that has three drainages from state roads into that property. On the northern end of the property there are two live springs and water flows throughout the year making the soil soft. He has seen water up to the level of the road when there are heavy rains. They would have to raise the elevation 3.5 to 4 feet to get the soil up to the grade level of the road. The neighborhood does not want this business here because they are 10 minutes away from a Walmart and he can walk across the road to the BP station where he can get what he needs. In addition, he pointed out that on a weekly basis, there is an accident at the intersection.

#### **Rebuttal in Support:**

Mr. Armazon responded to the conditions presented by Ms. Heath. The traffic light will be a function of NCDOT. There will be no deliveries after store hours because trucks can't deliver if the store is not open. This matter is a function of the tenant and not of the developer. Mr. Armazon felt that one of the three renderings of a store front submitted to the Board would satisfy the opponent's request for a facility that resembled a country store. The national hours of Dollar General are 8:00 a.m. to 10:00 p.m. He commented that it is difficult to put conditions on a national tenant. Once the store has closed the lights are turned off.

Chair Jones asked Mr. Armazon to address the opponent's concern about taking property across the street for a right-of-way. He explained that Mr. Welker's property line goes through the center of the road and NCDOT has jurisdiction. They can put right-of-ways in even where there is a deeded right to the land.

### **Rebuttal in Opposition:**

Mr. Welker said that the plan he saw showed the turn lane would be taken on his property. He thought the state right-of-way on that road was 30 feet from the center. The drawing shows that they are going up into his yard an additional 20 feet from the center line of the road. Chair Jones clarified that neither the developer nor the tenant would have the ability to take Mr. Welker's property. Mr. Bell commented that in general, DOT is not going to come and take any of Mr. Welker's property. If the right-of-way extends beyond what Mr. Welker thinks his property is, that will be a function of DOT. At the end of the day, DOT will know what their survey right-of-way is. Mr. Welker said that the tenant is requesting a turn lane; therefore, it should come off of the tenant's property and not his property.

Ms. Heath asked the Board to take the neighbors into consideration. The neighborhood does not want this development and she asked the Board to deny the request. There being no other speakers, Mr. Leonard moved to close the public hearing, seconded by Ms. Hayworth. The Board voted unanimously 6-0 in favor of the motion.

### **Discussion:**

None.

### **Motion:**

Mr. Alexander moved to **Approve** this zoning amendment located on Guilford County Tax Parcel #0110908 from **AG & HB** to **CA-HB** because:

1. The amendment **is** consistent with applicable plans because:

There are no plans.

2. The request **is** reasonable and in the public interest because:

This property is located in an area that is not covered in any of the County's land use plans. Therefore, there are no recommendations in terms of land use that relates to that particular property. The subject property is not covered in any of the County's adopted area plans. The request is in the public interest through the provision of retail services to area residents:

- (1) The proposed rezoning would extend the current HB zoning to approximately 2.44 acres of the existing parcel;
- (2) The parcel is at the crossroads of Alamance Church Road and Old Julian Road. Both are designated thoroughfares;
- (3) Those parcels west of Old Julian Road have developed commercially under the HB zoning; and
- (4) The use is limited to Department, Variety, or General Merchandise Retail, which is compatible with uses in the general area.

The motion was seconded by Ms. Hayworth. The Board voted 5-1 in favor of the motion. (Ayes: Jones, Leonard, Alexander, Mann, Hayworth. Nays: Thompson.)

**REZONING CASE #18-11-GCPL-07119: RS-40 to AG**

Located approximately 1,850 feet northeast of the intersection of Blakeshire Road and Southeast School Road in Clay Township. Being Guilford County Tax Parcel #0121404, approximately 2.60 acres owned by Rex McCaskill.

**(REFERRED TO COUNTY COMMISSIONERS)**

Mr. Talbott said that this is a request to rezone approximately 2.60 acres from RS-40 (Residential Single-Family District) to AG (Agricultural District). The RS-40 district is primarily intended to accommodate single-family detached dwellings on large lots in areas without access to public water and wastewater services. The district is established to promote single-family detached residences where environmental features, public service capacity or soil characteristics necessitate very low density single-family development. The overall gross density in RS-40 areas will typically be 1.0 unit per acre or less.

The AG district is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions.

The applicant/property owner is Rex McCaskill. The property is located approximately 1,850 feet northeast of the intersection of Blakeshire Road and Southeast School Road in Clay Township, being Guilford County Tax Parcel #0121404. The request is in an area that is primarily moderate to low-density residential and agricultural uses on varying acreage tracts. Surrounding uses are vacant to the north; low-density residential to the south and west; and there is a fire station to the east.

The land use plan for the area is the Alamance Creek 2016 Update that recommends for AG rural residential use. This request is consistent with the adopted plan. It is compatible with the surrounding uses and is being proposed in the public interest through the provision of necessary services.

- (1) The Plan designates the area as Agricultural Rural Residential which is consistent with this request.
- (2) The AG request will continue to limit future uses to Agricultural and Residential.
- (3) It is reasonable and in the public interest as the request will limit future residential and agricultural uses.

Staff recommends approval of this request. No Area Plan Amendment is necessary for this request if approved.

**Speaking in Support:**

Rex McCaskill, 4901 Landaff Drive, said that this is family land that was originally Coble Farm. When it was divided up under a will it was zoned RS-40. His uncle did nothing with the land because it would not perk and he offered use of the land to Mr. McCaskill as a space to operate his business.

Kevin Bauer, 4831 Blakeshire Road, was representing the neighboring Alamance Community Fire Department. He said that Mr. McCaskill is the best neighbor they have ever had.

**Speaking in Opposition:**

Kenneth Neaves, 4914 Blakeshire Road, pointed out residences on the map and said this is a residential area. He said that the Planning Board voted in favor of a Moose Lodge in the area 12 years ago that has a lot of lights. This is not a business area. The proposed project is not secluded from the road and he will have to drive past it every day. Putting this business in the area will be like putting another Moose Lodge in the neighborhood. The proposed business should be built in an area where there are already other businesses. He was concerned that the proposed business may have trucks driving to and from the site and he felt that there was no need for trucks on that road or for the extra traffic that might be generated.

**Rebuttal in Support:**

Mr. McCaskill builds decorative water features. He lives on Landaff Drive, within a half mile of the site. His business operates five days a week from 8:00 a.m. until 6:00 p.m. This site will be used to store his equipment and employees will not be on the site every day. He has four employees. He plans to put up a nice metal building with landscaping and buffering to make the property attractive. He owns four trucks, some trailers, a small excavator, and a skid steer that he plans to store in the building.

At the request of Mr. Thompson, Mr. Neaves pointed out large residential tracts of land located nearby. He sent letters to all of the neighbors and spoke to the owners of three of the four adjoining parcels. They were all supportive of the project.

**Rebuttal in Opposition:**

Mr. Neaves commented that another business in the area fixes custom cars but it is well hidden from sight. He said that this building will be visible from both sides.

There being no other speakers, Ms. Hayworth moved to close the public hearing, seconded by Mr. Thompson. The Board voted unanimously 6-0 in favor of the motion.

**Discussion:**

Chair Jones clarified that the Board is considering the zoning on this case. Depending on the vote, a Special Use Permit hearing for the use of the property may be held following this case.

Mr. Thompson said that although he appreciates small businesses, the fact is that this is all single-family residential in a rural area. He was not in favor of introducing a business into this residential area.

Mr. Alexander pointed out that the subject parcel is adjacent to the AG district which is making him consider approving the request.

Ms. Hayworth was inclined to approve this request because it is adjoining the AG area. The applicant has a respect for the community he lives in. She pointed out that the fire department located next to the proposed site is considered a business.

Mr. Mann commented that the proposed building is just a facility to hold equipment and he questioned if it was considered to be commercial. He was more in favor of the request than opposed to it.

Chair Jones clarified that there are no businesses located in residential areas unless they are home operated, such as the custom car shop.

Ms. Hayworth moved to **Approve** this zoning amendment located on Guilford County Tax Parcel #0121404, from **RS-40** to **AG** because:

1. The amendment **is** consistent with applicable plans because:

It is compatible with the surrounding uses and is being proposed in the public interest through the provision of necessary services.

(1) The Plan designates the area as Agricultural Rural Residential which is consistent with this request.

(2) The AG request will continue to limit future uses to Agricultural and Residential.

2. The request **is** reasonable and in the public interest because:

The request will limit future residential and agricultural uses.

The motion was seconded by Mr. Mann. The Board voted 4-2 in favor of the motion. (Ayes: Hayworth, Alexander, Leonard, Mann. Nays: Jones, Thompson.)

Because this was a 4-2 vote, this matter will be referred to County Commissioners for consideration on rezoning.

**SPECIAL USE PERMIT CASE #18-11-GCPL-07120: Landscape and Horticultural Services**

Located approximately 1,850 feet northeast of the intersection of Blakeshire Road and Southeast School Road in Clay Township. Being Guilford County Tax Parcel #0121404, approximately 2.60 acres owned by Rex McCaskill. The petitioner is seeking a Special Use Permit to operate a Landscape and Horticultural Service.

In the matter of the previous Rezoning Case #18-11-GCPL-07119, Mr. Bell explained that although a 4-2 vote is a majority vote, it is not a super-majority vote and must be heard by the County Commission to consider zoning. If the zoning passes at the County Commission meeting, this **Special Use Permit Case #18-11-GCPL-07120** can be heard by the Planning Board at a later date.

***Non-Public Hearing Item:***

**FINAL PLANNING BOARD 2019 MEETING:**

Mr. Bell presented the final Planning Board 2019 Meeting Schedule to members.



**ADJOURNMENT:**

There being no further business before the Board, the meeting adjourned at 9:05 p.m.

Respectfully submitted,

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Frankie Jones, Chairman

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J. Leslie Bell, AICP  
Guilford County Planning & Development Director

FJ:sm/jd

DRAFT