

TOWN OF FUQUAY-VARINA
PLANNING BOARD REGULAR MEETING
February 21, 2022

CALL TO ORDER

Chair Andy Petty called the regular meeting of the Fuquay-Varina Planning Board to order on February 21, 2022, at 6:00 p.m. Attendees were participating both virtually and in person.

Board Members Physically Present: Andy Petty (Chairman)

Ed Ridpath
Jay Adcock
Barbara Marchioni
Katherine Townsend
Michelle Peele

Board Member(s) Absent:

Alex Rickard
Jim Chandler

Others Physically Present:

Planning Director Pam Davison
Town Attorney James Adcock
Assistant Town Manager Jim Seymour
Clerk Eva Mayfield
Senior Planner Josh Jurius
IT Director Scott Clark
Assistant Director Melissa Sigmund
Senior Planner Allyssa Stafford
Planner Slater Knox
Planner Allison Wylie
Planner Jessica Crenshaw
Planner Grant Vestal

PLEDGE OF ALLEGIANCE

Chair Andy Petty led the Pledge of Allegiance.

Chair Andy Petty requested that *Board Member Katherine Townsend* be sworn in.
Clerk Eva Mayfield swore in *Board Member Katherine Townsend*.

HYBRID MEETING INSTRUCTIONS

Planning Director Pam Davison read aloud the hybrid meeting protocol and instructions for public participation. She announced that attendees would be able to comment both in person and virtually via the zoom virtual meeting platform. Anyone wishing to participate in the meeting virtually would need to either join using the Zoom media application or call the Zoom meeting with the provided list of phone numbers on the Town's website.

APPROVAL OF THE MINUTES

Agenda Item No. 2. A: – Approval of the Minutes from the January 11, 2022 Planning Board Meeting.

Purpose - The purpose of this agenda item is to consider approval of the minutes from the Planning Board meeting on January 11, 2022.

Chair Andy Petty asked if everyone had a chance to review the minutes from the January 11, 2022, Planning Board meeting and asked if there were any corrections requested.

Motion – Approve the minutes from the January 11, 2022, meeting of the Planning Board as corrected and recommended.

MOTION: Jay Adcock
SECOND: Barbara Marchioni
MOTION RESULT: Minutes Approved Unanimously 6-0

ITEMS TABLED FROM PREVIOUS MEETINGS

Agenda Item No. 3. A: Town Code Amendment - WJB Partners, LLC - Multi-Family Infill Development - CTA-2021-06 - (WITHDRAWN).

Purpose - The purpose of this agenda item is to receive the withdrawal for a proposed text amendment to the Town Code of Ordinances, Part 9 Land Development Ordinance, that addresses multi-family infill development.

Staff Comments – As this item was a request to withdraw the petition, no staff comments were made, and the petition was withdrawn from consideration.

Agenda Item No. 3. B: Zoning Map Amendment & Land Use Plan Amendment - Gray Methven, Wakefield Development - 8537 Lake Wheeler Road - Portion of PIN 0689455964 - REZ-2021-10.

Purpose - The purpose of this agenda item is to consider a requested zoning map amendment for a total of 35.49 acres, located at a portion of Lake Wheeler Road, from the Residential

Agricultural (RA) Zoning District to the Planned Unit Development (PUD) Zoning District and a corresponding Land Use Plan amendment from Mixed Use Neighborhood (MUN) to Mixed-Density Residential (MDR).

Recommendation – Recommend denial of REZ-2021-10, a zoning map amendment at a portion of 8537 Lake Wheeler Road, from the Residential Agricultural (RA) Zoning District to the Planned Unit Development (PUD) Zoning District and the corresponding Land Use Plan amendment from Mixed Use Neighborhood (MUN) to Mixed-Density Residential (MDR), as it is not reasonable or in the best interest of the public for reasons identified by Staff.

Public Hearing – The public hearing was opened for speakers in favor of the petition.

Chair Andy Petty stated that the public meeting was already open, therefore, staff doesn't have to enter the agenda abstract as it was already entered into the official record of the Town.

Chair Andy Petty asked the petitioner if they wished to speak or had anything new to add since the last meeting, or would they like to refer to staff to provide updates.

John Adcock, Adcock Law Firm, 202 East Academy Street - spoke in favor on behalf of the applicant. He explained that this case was tabled at last month's Planning Board meeting in order to allow the applicant to present their plan to the Land Use Plan consultant. The meeting had occurred, but the applicant had not received feedback. He thought that the point of the meeting was to allow the consultant to provide feedback on how their request fits with the updated Land Use Plan.

Mr. Adcock mentioned that the Town identified two (2) essential points in their staff report as a basis for their recommendation for denial. The first reason was that the Land Use Plan is being updated and staff could not recommend approval if there is a Land Use Plan amendment in conjunction with the rezoning request. He looked back over the past year of the Planning Board's agenda to January 2021 and discovered there were 15 rezoning requests submitted before the Planning Board. From January 2021 until the present time, seven (7) of those requests included Land Use Plan amendments. Only one (1) of those requests was recommended for denial, which is this rezoning request. He felt it is not uncommon to request a Land Use Plan amendment.

Mr. Adcock explained that in December 2021, based on the information provided to him and after the Land Use Plan consultant started updating the Land Use Plan, this Planning Board heard a rezoning case that had a Land Use Plan amendment. The Dan Ryan project was a rezoning and Land Use Plan amendment. This property was located at the end of Academy Street and had very similar circumstances. This request was submitted in December, well after the Land Use Plan consultant began updating the Land Use Plan. Staff recommended the rezoning with the Land Use Plan amendment for approval. There might have been some distinctions between properties; however, the land use classification is the same as what they are trying to get away from. *Mr. Adcock* then read aloud staff's recommendation for

approval for the rezoning and Land Use Plan amendment. The project was a townhome project constructed at the end of Academy Street, just outside the Judd Parkway loop.

Mr. Adcock detailed the second reason for staff's denial was the commercial component discussed in the last Planning Board meeting. *Mr. Adcock* explained that right-of-way had been deeded to the Department of Transportation for I-540 to be completed. With I-540 being constructed through this property, over 700 linear feet of road frontage was lost. This property also has some environmental constraints. *Mr. Adcock* explained that in 2017 when the Land Use Plan was adopted and the MUN land use designation was placed on this property, there was the belief that there may be an interchange at I-540 and Lake Wheeler Road. It is now known that is not the case, and there is no interchange planned there. It appears that the basis for designating this as a MUN zoning district on the Land Use Plan was because there was the possibility of an interchange at I-540 and Lake Wheeler Rd. *Mr. Adcock* stated that there is also no connectivity to adjoining parcels. An existing subdivision to the northeast has a cul-de-sac and will not be stubbed into this property. This subdivision is at the northern end of the jurisdiction of Fuquay-Varina, and hundreds of thousands of square feet of retail and non-residential uses are located within less than a mile of that property at the intersection of US 401 and Ten Ten Road.

Mr. Adcock then presented two (2) letters for the record. The first letter was from NIA Tri-Properties that stated that in their opinion, the property does not support commercial uses, as the current traffic counts are too low to justify commercial development, even considering the future traffic growth and the addition of new homes in the area. The idea of introducing commercial midblock doesn't follow traditional commercial growth logic. Retail uses would typically lead commercial development in an area such as this, and those uses are going to first look to intersections to capture traffic from both directions. None of the Lake Wheeler Road intersections south of Tryon Road have been developed or pursued for commercial development. Given this overall lack of market, attempting to include a commercial midblock seems to miss the mark for the highest and best use of the property. With the proximity to existing commercial at US 401 and Ten Ten Road, there's plenty of commercial development opportunity within easy reach to serve the residents of the development of the Lake Wheeler Road corridor.

Mr. Adcock stated the second letter was from the Scott Corbin Team, a commercial real estate broker. This letter said that *Mr. Clifton* reached out to all of his clients asking about interest in commercial opportunities, and they all declined, stating that it was not a viable commercial parcel.

Mr. Clifton did not believe commercial is the best and highest use for this property for two (2) specific reasons:

1. A higher density is needed for mixed-use developments to be successful: 100-115 residential units in Banks Farm are not enough to sustain a stand-alone business.
2. Commercial in this area should be located at the major intersection such as Ten Ten Road and US 401 and near the future I-540/US 401 interchange.

Mr. Adcock explained that Wakefield Development does commercial development, and if they thought the market encouraged them to put commercial on the site, they would have pursued that, however, Wakefield Development has researched this property, and they don't feel commercial uses are the best use for this property.

Mr. Adcock stated that this property was involuntarily taken into the ETJ by the Town of Fuquay-Varina. The property owners were given a Land Use Plan to follow that is subject to being amended. Now they have to wait for the Land Use Plan to be updated. There is no definitive time frame for that to occur and no request for public involvement in the Land Use Plan update. Having input from the citizens and property owners of the jurisdiction is a critical part of comprehensive land use planning. *Mr. Adcock* stated to the best of his knowledge; there has been no invitation for anyone to be involved with this other than a Land Use Plan consultant and the staff. He explained that they thought they were getting invited to present their plan so that they could have some comments back from the Land Use Plan consultant and the Town.

Mr. Adcock stated that he had not gotten any feedback. He understands that there is a process, and no one is questioning the need for the Town to update the Land Use Plan as a critical part of comprehensive land use planning. *Mr. Adcock* explained that he felt what was occurring was not right. Wakefield Development had a lot of back and forth on their petition request and was told that their proposal would get a recommendation of approval from staff. Then, on December 6th they were told, without any change in the proposed conditions, staff would recommend denial. There is an inconsistency, which was proven by the example of the Dan Ryan project. The Dan Ryan project had very similar circumstances, a Land Use Plan amendment with a rezoning request during the timeframe that the Land Use Plan is being updated and it was approved.

Mr. Adcock explained that this project is proposing just over three (3) units per acre. This property is immediately adjacent to I-540, with a blue line stream going directly through the property. This is a challenging site for Wakefield Development to develop. There is plenty of civic space, the amount of open space that has been offered as a part of this project exceeds what is required.

Mr. Adcock closed by stating that this is a good project and commercial is not a good use for this property. He respects staff's position but disagrees with it. He wanted to know what happened that changed the staff's position from recommending approval to recommending denial.

Chair Andy Petty stated that he would like to allow staff the opportunity to address the points made by Mr. Adcock. He then explained that he could understand the correlation between the Dan Ryan Project and this request, however, there were also distinct differences between the Dan Ryan project and this request.

Planning Director Pam Davison explained that the two (2) significant differences between the Dan Ryan project versus this request. Although the Dan Ryan project was also delineated to be a form-based development, staff identified some inconsistencies with the existing land use plan. The Mixed-Use Neighborhood designation went over the existing developments of Adalyn Place, the Town's library, and the new Calyx Senior Center, which are all being developed as either commercial or residential developments. Adalyn Place was already under review when the land use plan was adopted and was definitely not mixed-use.

Planning Director Pam Davison stated that the second critical point is that the majority of the property was zoned Residential High Density (RHD) and they could have developed townhomes by right. There were two (2) small parcels that they could have rezoned in isolation but would have left an awkward hole in the Land Use Plan. Staff asked them to rezone the whole property to consistent Land Use designation. By supporting a rezoning for the whole property, the town was also able to get several character conditions, ensure that no homes front Bevis Marks Road and incorporate other elements that staff felt would result in a high-quality development.

Chair Andy Petty stated that the rezoning of the Dan Ryan project also reduced the density from what they could have done by right. He then explained that with this request being the first one coming through as we are going through a Land Use Plan amendment, it needs to be determined how they are setting the precedent in moving forward and how they will look at every case that comes in after this. Showing favoritism is not something management, staff, or this Board wants to do. *Mr. Petty* stated they need to determine how they will look at projects/cases that come through moving forward requiring a Land Use Plan amendment. He then asked for an update on the LUP project.

Assistant Town Manager Jim Seymour stated that it is in the best interest of the staff, the public, and the development community to treat all projects equally. During this transitional time, there have been several proposed projects, as discussed at the January Planning Board meeting. Staff is about a month or so away from getting updates on the Land Use Plan.

Assistant Town Manager Jim Seymour stated that it is equitable and judicious to treat all projects the same and not allow Land Use Plan amendments to occur because they don't want anything to move forward that could potentially negatively impact the Town's landscape.

Assistant Town Manager Jim Seymour responded to Mr. Adcock's statement about what occurred during the December time period when they thought they were given direction by staff, but then it was recommended for denial. The Land Use Plan adopted in 2017 had served the Town well. However, staff realize that given the robust growth and type of projects coming in, they need to retool in certain areas. In order to be fair and equitable for all projects coming in, management and staff have asked developers to hold on to the rezoning requests and or Land Use Plan amendments until the Town has received the updates from the Land Use Plan consultant. This also pertains to any projects that have come in over the last several months and projects that they have been working on before December. They have asked them all to hold and give the Town time to complete the update.

Chair Andy Petty stated there still was an issue with residential versus non-residential. He asked if the feedback on this is that staff, management, and the Land Use Plan consultant still need a non-residential component on this site?

Assistant Town Manager Jim Seymour stated that they have made it clear in their denial recommendation. They provided two (2) reasons that Mr. Adcock mentioned earlier. The first one is that staff is recommending denial as they are waiting on the Land Use Plan update. They would make the same recommendation for any project that wishes to move forward at this time that staff found to be inconsistent with the Town's current Land Use Plan. The other reason is that according to the current Land Use Plan, staff affirms that some type of non-residential component should be integrated into this site. Not big box retail but more along the lines of small-scale commercial. Something that has a multimodal component where residents nearby and directly on that property could eventually walk to some type of small-scale commercial business. He stated that they had explained the same scenario to other developers that have come in while we are waiting on the Land Use Plan update.

Chair Andy Petty asked if the Board had any questions for staff?

Assistant Town Manager Jim Seymour made a final point regarding the mention of public input that Mr. Adcock made. He stated that waiting on the Land Use Plan is in the best interest of the public. Once staff has the information from the Land Use Plan consultant, which they expect to have over the next several weeks, the Town plans on posting highlights of what elements of the Land Use Plan are proposed to be updated on social media, Let's Talk Fuquay, and the Town's website. Not only members of the development community can see it and offer feedback but also members of the public and the residents of Fuquay-Varina. Staff will also bring the updates to the Planning Board and Town Board for their approval.

Assistant Town Manager Jim Seymour closed by saying they have taken a diligent approach to this and plan on presenting the updates as soon as they are ready. Everybody will have an opportunity to look and comment on the update.

Board Member Barbara Marchioni asked what is the time frame for receiving the updates?

Assistant Town Manager Jim Seymour responded that he is estimating the end of March, early April when this information would hopefully be available for public comment.

Board Member Barbara Marchioni asked Assistant Town Manager Jim Seymour to confirm if the Land Use Plan update would go to the public, then on to Town Board for approval and what that timeline might be.

Board Member Michelle Peele asked if significant input comes back in from the public would that allow for any changes?

Assistant Town Manager Jim Seymour responded yes, the goal is the middle of March for the draft to be completed and the adoption of the Land Use Plan update in April. That would allow for about a month's worth of public comment to be reviewed and incorporated.

Chair Andy Petty asked Assistant Town Manager Jim Seymour if there was going to be any type of Town Hall meeting for the public to be informed of the update and have the ability to have input or will the update be provided through social media channels, then go to Planning Board, then on to Town Board. He stated that there was a Town Hall meeting for things of this nature in the past and wanted to know if there was a plan to do something similar to that for the Land Use Plan update.

Assistant Town Manager Jim Seymour responded that instead of having a public forum, staff have plans to meet with the members of the development community that have specific questions to address their comments or questions. The feedback they receive from the public, the development community, and the residents of Fuquay-Varina would determine if they needed to do more public outreach. The intent is to ensure that updates are available for comment and review on the Town's social media accounts and website.

Chair Andy Petty stated that it appears that developers have presented feedback and have not gotten a response back at this time. He then asked if there was a mechanism where a developer could come back and do this again? Is that the path you want to lead them down? It appears that the developer did not get any feedback last month, but they weren't sure if they would be able to receive feedback. How does somebody like the petitioner in this case who wants to do something before the Land Use Plan update get that one-on-one feedback on a particular piece if staff is only retooling certain parts?

Assistant Town Manager Jim Seymour responded to Chair Andy Petty that as soon as the comprehensive updates are available, staff plans to meet with all the developers they have been working with, including the petitioner for this case, to share those updates. He stated

that they would work with the petitioner and any other developer to figure out how their project could fit into the updated Land Use Plan.

Chair Andy Petty stated that it sounds like the developers and petitioner have not gotten any feedback because the Town has not gotten feedback at this time. Due to this, you don't want to release something prematurely without having the updates.

Assistant Town Manager Jim Seymour agreed.

Planning Director Pam Davison stated that the Town Board is the ultimate decider on this, so, if the consultant gives feedback and it's something that the Town Board has not heard or adopted, then it would be premature to communicate it.

Board Member Katherine Townsend asked Town Staff when the petitioner bought this property, was it included in the ETJ. Was it communicated to them that they could not change it and this revision to the Land Use Plan was going to happen? Since purchasing the property, have they always known that it was mixed-use?

Planning Director Pam Davison responded to Board Member Katherine Townsend by stating that the land use designation has not changed as long as it has been in the ETJ.

Board Member Katherine Townsend asked if they had always wanted to change it to residential only?

Planning Director Pam Davison responded that there was a pre-development meeting held on this property. Staff clearly communicated at that time that the Board had not approved a LUP amendment shifting away from a form-based zoning district before, and that would be something that staff would have to look into and consider, and that it would have to be justified.

Chair Andy Petty asked if anyone else wanted to speak in favor?

Matthew Danielson, Wakefield Development, 3100 Smoketree Court, Suite 210 - stated he acknowledged that the Planning Staff is in a very difficult position. Initially, they had their pre-submittal meeting around April. They submitted their request with a commercial component, however, their research showed that commercial would not work in this area. He wanted to note that they were working with Staff on a development 1.2 miles from this project that will have mixed-use, which is the same zoning, and his company does do commercial developments. This project, however, does not propose a commercial development because this is not a commercial spot.

Mr. Danielson continued that they had been working with staff for months on this request and had staff's support. They added 17 conditions that were above and beyond what was required in the LDO. They had staff's support until about one (1) week before the December Planning Board meeting which was unfair from his perspective. That is when they learned that there was a Land Use Plan consultant.

Mr. Danielson stated that this property is zoned for commercial as Assistant Town Manager Jim Seymour stated, and that commercial areas should be walkable. He explained that you could not have anyone walking from the north of this site, and to the south, there is I-540, so the only walkable areas would be the 120 units within the community. He explained that they only have 120 units and cannot do 121 because they only have one (1) street access. He then referred to page five (5) of the report and read aloud, stating that "typical densities in a mixed density residential neighborhood range between four (4) to eight (8) dwellings per unit". They are already almost 25% below the minimum requirements. If the Town had them do a commercial component, they would be down to about 100 or so units, which puts them right around 2.81 dwelling units per acre. He explained that they are only at 70% of the threshold at the bare minimum. He explained that this property is not a viable commercial component, as evidenced by the responses he got from commercial brokers who he asked for their professional opinion on the land. He has letters from professionals who have been in the market for 15 plus years that state commercial does not work on this property. Mr. Danielson said that the question that needs to be asked is, is commercial viable at this property? He explained that the property owners they are purchasing this property from also do not like commercial uses on it, and there was no support for commercial during the neighborhood meetings. He felt that no one in this area thinks it is a viable location for a commercial component.

The public hearing was closed with no other speakers in favor of or in opposition to the petition.

Chair Andy Petty stated that there are some things to consider, like how the Planning Board proceeds with this as precedence. He understood the petitioner's point of view about the confusion with approvals, and he also understood the Town not recommending approval. He stated that the Board also needed to consider the residential versus nonresidential component. It appeared that Staff had some feedback and comments for the Planning Board.

Assistant Town Manager Jim Seymour stated that he wanted to clarify that the timing of having the Land Use Plan update would be posted on Let's Talk Fuquay and will be presented to the Planning Board for discussion. He explained that they plan on having the draft of the update available in March, presented before the Planning Board in April, and ultimately presented before Town Board in May for adoption, assuming there are no significant delays.

Chair Andy Petty stated that gives a sort of time frame of when to expect updates and is helpful to their decision-making. He said that he feels this is a good plan and understands how to move forward with these requests, as this will not be the last zoning case prior to the Land Use Plan amendment between now and May.

Chair Andy Petty stated that he doesn't see the correlation between this case and the Dan Ryan case, as the Dan Ryan project was a use by right, which gave the Town a sense of betterment.

Board Member Michelle Peele explained that she thinks about her approach when considering items brought before the Planning Board and considers some ideas to make a property successful when it has mixed-use components. She also looks at and considers connectivity all around the site. When looking at a long parcel with little connectivity and proposing that live, work, play idea that we look for with mixed use, this property doesn't support that.

Board Member Michelle Peele continued that this proposed site has the barrier of I-540, and NCDOT owns the surrounding properties. Those properties will not be developed but will be preserved for NCDOT access. There will not be connectivity from the property to the north and the east of this site. She had concerns regarding connectivity for successful commercial businesses. She likes the idea of mixed-use, which offers that live, work, play in your community option, and that allows you to not get into your car to go to a store. It is outside your front door and all in one area, but she doesn't see this property serving the community and offering connectivity for successful mixed-use.

Chair Andy Petty stated that he agreed with Board Member Michelle Peele's statement.

Board Member Barbara Marchioni stated that as much as she appreciates Town Staff, she does not see a commercial component with this property as a real estate broker. Small businesses have to make money, too, and she didn't see any potential for commercial at the site.

Chair Andy Petty stated that ideally, they would want this to get delayed in order to allow time for the Land Use Plan update to be completed, however, the Board doesn't have the luxury because this situation will set a precedent.

Board Member Michelle Peele stated that because of the unknowns of I-540, when this Land Use Plan was originally adopted, you had to plan for what you thought could happen in the future and work with the changes later. The situation the Board is dealing with is the potential of interchange, which would have provided the connectivity and made this area successful for a commercial component. Now that staff is updating the land use plan and can better plan for the future of this area.

Assistant Town Manager Jim Seymour stated that he wanted to be clear that they knew back then that there would be no interchange at this intersection. He then asked if they have referenced the additional property to the south that NCDOT currently owns, should still yield some type of non-residential. He explained that they are not looking at this one site. When the Town views land for development, the Town considers the broader vision of what should be built today and what the future of it should look like.

Chair Andy Petty stated that when he looks at this property, there is nothing around this site that has a non-residential component.

Board Member Michelle Peele stated that a bigger parcel with connectivity to other neighborhoods could connect to an area that serves the mixed-use. She could see that in this area along Lake Wheeler Road, the corridor lacks commercial and walkability. Introducing a property like this along the corridor is needed, as we expect an update in the Land Use Plan, but she didn't think this property was appropriate for commercial.

Board Member Ed Ridpath stated that the Town does have a limited amount of commercially developable land. Last year, the LUP was amended several times. The intent of the initial LUP was that amendments would very rarely have to be made and would be made only in regard to the principals of the LUP. He agreed that he did not see commercial value at this property. When this land use was designated, it wasn't known when the property would get developed, and the Town was trying to place mixed-use possibilities all around the Town so that we wouldn't overrun everything with commercial or residential, but hint that the open parcels should be working more towards our kind of vision for the future at the time, which was all these mixed-use developments.

Board Member Ed Ridpath stated that he could envision this property being created with the thought processes and approach of looking at the area as a whole. It makes sense that the property would be designated as a good spot for non-residential. He could see where they would want to reserve some area for doing that. They are being asked as the Planning Board to make that decision. In the absence of a new Land Use Plan with the precedent that staff has said they will set out to modify the Land Use Plan and stated that they had worked closely with the developer to develop something that is good, they are trading off that Land Use Plan for some additional development improvements and higher quality development there.

Board Member Ed Ridpath stated that that is where it stands as far as commercial but had another concern regarding the process. He explained that when we put in a Land Use Plan, and used Adalyn Place as an example, it went against the Land Use Plan. If you look at that area along Academy Street and Judd Parkway, that area would have been great for showcasing mixed-use development. However, when that development came in, the Land Use Plan wasn't ready. They had every right to develop it the way they wanted to, based on the previous precedent. When the Land Use Plan was adopted, any ongoing projects continued from there, and were accepted as-is, regardless of how the Board felt we would have liked to have done. What we are trying to do here, which is to delay the request, stop the development, and wait until the rules change to move it forward. Mr. Ridpath stated that he feels the fair thing is to delay things regarding the process issue, but the delaying of things should be on the new projects coming in the door, not the ones that are halfway through the process, getting ready to come before the Planning Board and Town Board for approval. That is how we can be fair and equitable.

Board Member Ed Ridpath explained the thought process and decision making of where commercial developments can be put so that generations to come can have a livable community over time. They had reserved some areas for more modern, dense, compact, walkable, usable, form-based, and beautiful for people to live. That is the Town's plan, and that is what needs to be clearly communicated. He stated that the Staff does a very good job of communicating the Town's vision.

Board Member Ed Ridpath continued that he does not agree with saying the Land Use Plan does not support this by right. The Planning Board is obligated to say that they do not have the guidance at this point of staff for the land use of this property. What do we think the land use should be? He did not agree with a commercial component for this property. But the Planning Board should be cognizant of the process and its progress through the process.

Board Member Ed Ridpath stated that they have to look at the existing Land Use Plan, the new Land Use Plan and the Land Use Plan amendments process to see how it can be improved for situations like these. However, until we get the Land Use Plan update, the Planning Board owns the decision-making process. He explained that they are Planning Board Members and not Land Use Plan consultants. The Board represents the public and tries to give the best input they can to the Town Board.

Board Member Katherine Townsend stated that she drove to this property around 5:15 p.m., which was not wise due to heavy traffic. She did see the places you can enter the property, but considering the traffic and accessibility, would not go out of her way to any commercial business. Any commercial business that goes there would be limited to that live, work, play situation. That is not sustainable for the neighborhood because they would have working class people there. She did want more mixed-use developments in Fuquay-Varina because it is a great concept, just not a good fit at this site.

Board Member Katherine Townsend stated that she went to Lakestone, where Big Lots and Kohls are, as she felt that was comparable to this project. She has been to these commercial businesses but has not been to any of the other single businesses located there. She has seen where it works in Holly Springs on NC 55, where there is a coffee shop called Thanks A Latte. It is a bigger area and has heavy traffic, however, she would still avoid that area due to heavy traffic. The requested site is not sustainable for small businesses.

Chair Andy Petty stated that it is apparent that the Planning Board members agree that the non-residential component is not a good fit for this property. They then had to decide on the process and understand that if they approved this, it impacts future project requests in this type of situation. They needed to decide if they will look at each project on a case-by-case basis or are we holding until the Land Use Plan update is received so that we are equitable to everyone.

Board Member Katherine Townsend stated that the Town has a Land Use Plan that is in place currently, and there is speculation about what the new one will be, but at this time, they do not have any way of knowing what it will be. The Board should go by the one that they currently have. They have to make the best decision based on their current information and not what is coming down the line.

Assistant Town Manager Jim Seymour stated that he does not know if it will stay mixed-use residential once the Land Use Plan is updated. He advised that they are not asking for a year, they are asking to hold off until May. The Board can make a decision today that could potentially have a negative impact on that area going forward for the next 50 years, or you can wait three (3) months. This is a difficult time, and the petitioner has spent a lot of time working with staff on this request. Staff are not holding back any cards on this and based on the information that has been presented for this project. Mr. Seymour explained that the Land Use Plan consultant has been gathering all the information and is working on the Land Use Plan map, which will ultimately have all the needed information. Staff should get that information over the coming weeks and provide it to the public.

Chair Andy Petty stated that the Planning Board has to consider that they could go through the Land Use Plan amendment process. They could adopt the Land Use Plan amendment, and the update could indicate that this property still contains the non-residential component. He doubted they will recommend any Land Use Plan amendments shortly after the adoption of an amended Land Use Plan. The Board disagreed with the Land Use Plan as it exists now, but if the Land Use Plan gets amended where it may still call for a non-residential component, then the Planning Board is still denying it based on the amended update. There is a risk that the Planning Board denies it based on it not being compliant with the updated Land Use Plan.

Assistant Town Manager Jim Seymour stated that character and typology are what the Town is looking to incorporate into the Land Use Plan. The current proposal is all residential. This proposal is embedded within a large lot development; the surrounding properties are all about one (1) acre or larger. Delaying this decision is the recommendation to ensure that the Board makes a decision that would be long lasting and in the best interest of the public. Lake Wheeler Road will be four (4) lanes one day, the population is growing, and traffic management is growing as well.

Chair Andy Petty stated that this is a good plan. They are proposing to do everything that was asked of them to be compliant, however, as a Planning Board, they have to consider that what they decide on will dictate future projects that come before the Planning Board. The Planning Board has to be prepared to state the reasons why we made the decision we made or set a precedent.

Chair Andy Petty asked the Board to enter in a motion.

Board Member Katherine Townsend stated that this is a difficult decision and wondered which side they should side with.

Chair Andy Petty stated that it is not about sides. It is more of a precedence than a process. His concern was that if the Planning Board approves this against staff's recommendation, then the next case that comes forth requests a Land Use Plan amendment while the Town is still in the Land Use Plan update process, the process is repeated. At this time, we are past the Land Use Plan issue. We are now dealing with the process of things. We don't know what the Land Use Plan will change.

Board Member Ed Ridpath stated that the Planning Board is an advisory board made up of community citizens, not staff or developers. Board members are to look at each case as it comes through, look at its surrounding uses, look at what is known about the community and make a recommendation to the Town Board. If the Planning Board approves or denies this case, it does not impact all cases that come in after that. The Planning Board is different, there are new members, and the Planning Board has been reorganized. The Planning Board has good justifications and have expressed those within the Board's discussions. Decisions made are on a case-by-case basis and do not indicate what will be done on every case that comes through before the Planning Board. Mr. Ridpath stated that an amendment was submitted two (2) months after the Land Use Plan update was begun. The difference is between staff's recommendation and Planning Board advisory authority. The Board members are to vote on a case-by-case basis based on the merits of each case. They understood their authority to make these decisions as Planning Board, and he wanted to ensure that they do not give up any authority and that any decision that is made does not dictate the decision making to future cases.

Chair Andy Petty stated that the points made by Board Member Ed Ridpath are fair; however, Town Board may not feel the same way.

Board Member Ed Ridpath stated that they might feel differently, and it is up to the Town Board to listen to the recommendations made to them. Staff has been very good about providing the Planning Board feedback from the Town Board meetings, especially when there have been disagreements. This might be one of those cases where it is a learning experience for the Planning Board where Town Board comes back saying that Town Staff was right in their recommendation. However, the Planning Board is an independent advisory authority and looks at things on a case-by-case basis. That is how the system was designed and how the process is.

Chair Andy Petty asked the Board for a motion.

Motion – Recommend approval of REZ-2021-10, a zoning map amendment at a portion of 8537 Lake Wheeler Road, from the Residential Agricultural (RA) Zoning District to the Planned Unit Development (PUD) Zoning District and the corresponding Land Use Plan amendment from Mixed Use Neighborhood (MUN) to Mixed-Density Residential (MDR), as it is reasonable or in the best interest of the public for reasons identified by the Planning Board.

MOTION: Ed Ridpath
SECOND: Katherine Townsend
MOTION RESULTS: Motion Passed 4-2; Chair Andy Petty and Board Member Michelle Peele voted in opposition.

ADMINISTRATIVE REPORTS

Agenda Item No. 6. A: Planning Staff Report

Purpose – The purpose of this agenda item is to receive information on the disposition of the Planning Board's recommendations to the Town Board of Commissioners since the January 11, 2021, Planning Board meeting.

Recommendation – No Action Required – Receive as Information

There were no questions from the Planning Board.

ADJOURN

A motion was made to adjourn the meeting at 7:03 p.m.

MOTION: Barbara Marchioni
SECOND: Jay Adcock
MOTION RESULTS: Motion Passed Unanimously 6-0

FUQUAY-VARINA, NORTH CAROLINA



Andy Petty, Chair

ATTEST:



Eva Mayfield, Clerk