STATE OF GEORGIA
COUNTY OF HENRY

The Henry County Board of Commissioners held a Regular Public Meeting ***in-person*** on Tuesday, March 21, 2023, 6:30 p.m., at the Henry County Administration Building (Community Room), 140 Henry Parkway, McDonough GA. HenryTV also streamed this live online at its website, as well as Charter/Spectrum Channel 180 and Facebook Live.

Carlotta Harrell, Chair
Johnny Wilson, District 1 Commissioner
Dee Anglyn, III, District 3 Commissioner
Vivian Thomas, District 4 Commissioner
Kevin J. Lewis, Vice Chair/District 5 Commissioner

Also in attendance: Cheri Hobson-Matthews, County Manager; Nancy Rowan, County Attorney; Stephanie Braun, Clerk, Henry County

NOT PRESENT: Dee Clemmons, District 2 Commissioner

HENRY COUNTY CODE OF CONDUCT

(Sec. 2-2-128: Conduct during public meetings)

INVOCATION

The Invocation was given.

PLEDGE OF ALLEGIANCE

The Pledge was recited.

CALL TO ORDER

Carlotta Harrell, Chair, called the Regular Meeting of the Henry County Board of Commissioners for Tuesday, March 21, 2023 at 6:30 p.m. to order.

Amendment to Agenda re: Building Department

Chair Harrell amended the agenda to add a legislative update and then advised that after the Planning & Zoning items are heard, there will be an added item to the agenda regarding amending the Unified Land Development Code (ULDC).

J. Brett Hanes, Assistant Director, Henry County Building & Plan Review, approached and stated that there was a senate meeting regarding House Bill 514, which limits the ability to enact moratoriums, with a limit of one hundred and eighty (180) days with little to no exceptions. Mr. Hanes stated that the aspects regarding Public Safety were added as well as allowing local governments who have engaged in professional third-party or in-house planner to extend that 180-day limit as needed for the purpose of developing any ordinances and/or practices deemed necessary. He then presented the Legislative Update of all Bills pending action and their respective statuses.

CONSENT AGENDA

Cheri Hobson-Matthews, County Manager, read the Consent Agenda as follows:

Department of Transportation

A. Resolution authorizing a Vulcan Materials price increase for quarry aggregate (Presenter: David Simmons, CE III, DOT) (Exhibit 1) *Resolution #23-107*

E-911

A. Resolution of the Board of Commissioners to purchase a new recording system for use in the Emergency Communications Center at a cost of $119,721.38 to be funded through E911 fees. (Presenter: Tamika Kendrick, E911 Director)(Exhibit 2) *Resolution #23-108*

Facilities Maintenance

A. Resolution awarding contract to Garland/DBS Inc, (Omnia Partners Public Sector Contract #PW1925), via Innovative Roofing Corp., in the amount of $397,935, for the roof replacement at the Developmental Disabilities Building (672 Industrial Blvd., McDonough, GA) utilizing Capital Funds, as approved in the CIP approved by the Board of Commissioners (Presenter: Hutch Purvis, Cluster Leader)(Exhibit 3) *Resolution #23-109*

Fire Rescue

A. Resolution of the Board of Commissioners Appointing Frank Robinson to the Region 4/West Georgia Emergency Medical Services Advisory Council (Presenter: Fire Chief Jonathan Burnette, HCFR)(Exhibit 4) *Resolution #23-110*

B. Resolution of the Board of Commissioners to approve a lease program for One 100' Mid Mount Tower at a cost of $273,487 per year for (7) seven years with an optional balloon payment of $459,755 for a total lease amount of $1,910,000 over seven (7) years with PNC Equipment Finance, LLC using Ten-8 as an Authorized Distributor utilizing Capital Funds. (Presenter: Fire Chief Jonathan Burnette)(Exhibit 5) *Resolution #23-111*

C. Resolution of the Board of Commissioners to approve a lease program for One 107' Ascendant at a cost of $204,058 per year for (7) seven years with an optional balloon payment of $469,609 for a total lease amount of $1,512,100 over seven (7) years with PNC Equipment Finance, LLC. using Ten-8 as an Authorized Distributor utilizing Capital Funds. (Presenter: Fire Chief Jonathan Burnette)(Exhibit 6) *Resolution #23-112*

Police Department

A. Resolution awarding a Bid #23-34 to West Chatham Warning Devices for the purchase and installation of vehicle equipment in the amount of $126,006 for the Henry County Police Department K-9 Unit. Funds will be utilized from the RedSpeed account. (Presenter: Lt. W. Powell, HCPD)(Exhibit 7) *Resolution #23-113*

SPLOST

A. Resolution approving the purchase of LED Site Lighting from MUSCO Sports Lighting, LLC in the amount of $73,942 for the Basketball Courts and Playground located at Mickey D. Cochran Park in District 4 using SPLOST V funds (SP5401). (Presenter: Lynn Planchon, Capital Projects Director)(Exhibit 8) *Resolution #23-114*

T-SPLOST

A. Resolution of the Board of Commissioners approving a Supplemental Agreement for Kimley Horn in the amount of $56,400.00 on the design of McDonough Parkway Extension (SR42 to SR155). (Presenter: Roque Romero-Muñiz, Cluster Lead/Public Works) (Exhibit 9) *Resolution #23-115*

This ends the Consent Agenda

Chair Harrell asked that the Fire Chief approach regarding the agenda items B and C under Fire Rescue.

Jonathan Burnette, Chief, Henry County Fire Department, approached and explained that this is to replace two (2) current ladder trucks in service as of today and the purchase would keep the Fire Department in status quo. Since these trucks are on a 7-year lease and the lease is in its 5th year, Chief Burnette explained that the purchase is necessary now as it takes up to two (2) years for delivery of the trucks.

Vivian Thomas, District 4 Commissioner, asked if this is part of the Fleet Replacement Program (someone responded affirmatively). The District 4 Commissioner then referenced the Vulcan Material price increase and asked if there is a percentage or a flat rate increase to be authorized; **Ms. Matthews** responded that a 15% increase to the prices has been requested, as shown in the attached exhibit.

Under E-911, **Commissioner Thomas** asked if the Emergency Communications Center operates with the Tyler System; **Ms. Matthews** affirmed that it is under NewWorld ERP, which is part of the Tyler Systems. **Tamika Kendrick, E911 Director,** approached and explained that everything in the E-911 center, including phone lines, radio traffic are all recorded and the current recording system is at end-of-life sometime in April. This purchase would replace the recording system for the entire center. The District 4 Commissioner asked if the Tyler System can accommodate this; Ms. Kendrick clarified that Tyler is the computer system and that this particular item is for recording for the radio traffic and the phone lines in the E-911. Tyler is used but everything is recorded through NewWorld. The Commissioner explained that in discussion with the County Manager, new modules were considered for purchase and asked if this was one or two different systems, to which the Director clarified that they are separate.

There being no further questions or comments, **Commissioner Thomas** moved to approve the Consent Agenda; **Dee Anglyn III, District 3 Commissioner,** seconded the motion. Motion carried (5-0-0).

REGULAR AGENDA

HENRY COUNTY FIRE RESCUE

Ordinance by the Henry County Board of Commissioners adopting regulations regarding lithium-ion batteries and lithium metal batteries (Presenter: Fire Chief Jonathon Burnette)(Exhibit 10)

Chief Burnette presented the proposed ordinance to the Board. He particularly referenced that some of these batteries have been made using low-quality materials or assembled incorrectly, causing them to be damaged, overheated and/or potentially explode which could result in serious consequences to life and property. This ordinance would address hazards specific to storage in commercial and industrial environments and strategies that building owners/operators would have to implement in order to reduce such risk. He gave an example of the effectiveness of a fire truck with a capacity of 750 gallons of water to address an electric vehicle that may be on fire, adding that to put that fire out would take approximately 15,000-20,000 gallons of water. In an industrial complex with the possibility of millions of pounds of lithium-ion batteries stored within, there would not be enough water to extinguish any potential fire event. It is through these potential scenarios and further discussions with relevant department heads that this ordinance is presented to the Board. He then yielded the floor to the Fire Marshal for further remarks.

Chief Michael Black, Fire Marshal, Henry County Fire Department, added further comment on the potential hazards of lithium-ion batteries and this ordinance is crafted due to a lack of international standards on the safe practices for bulk storing these batteries. He gave further detail on how this ordinance would be in place to put requirements in place ensuring safety in storing these batteries in such buildings. Fire areas will also be constructed in these areas and have a different type of construction, as well as fire suppression systems, notification systems, gas monitoring systems and other systems to ensure early detection of these potential disasters. The ordinance would also require emergency operations planning on the part of the business as well as facilities training and employee training, with a fire hazard mitigation analysis done by a third-party organization and any recommendations from such analysis.

Mr. Hanes added that from a Code perspective, the current international building code and international fire code were added on in 2018; the next time to adopt codes will be in 2026. The 2018 additions were not implemented until 2020 and the 2024 additions will be adopted in 2026.

Chair Harrell asked if there is specialized training for firefighters in extinguishing these types of fires, or if there are specific materials to use, and further asked how long those types of fires typically burn. **Chief Burnette** responded that the training provided to the current employees will cover all of that but as far as how long those fires burn, there is not a lot of historical data as of yet to give an accurate assessment, given various factors.

Johnny Wilson, District 1 Commissioner, stated that this does not affect the Cities since they have their own Fire Marshal; **Chief Burnette** affirmed same and asked for the Board to strongly urge the Cities to adopt the same ordinance universally. While the Cities have their own Fire Marshals, the county still would deploy Fire Department personnel to respond to fire events within the Cities when needed as they do not have their own fire safety personnel. If the Cities do not adopt this Code, the Fire Department would not know what is being brought into their local jurisdictions and no restrictions would be in place and thereby increase the risk for one of the above-mentioned disastrous fire events. The Chief further added that City Fire Marshals do not share their information with the county (as remarked by the District 1 Commissioner); however, he added that Chief Black has reached out to the Cities in an effort to keep communication open with them but at the present time there is no mandate that the Cities have to report when industrial/commercial buildings are housing bulk storage of these types of batteries. The Cities do have to adhere to the State requirements but the county currently has no oversight over the Cities.

Chair Harrell remarked that if there is industry coming within city limits, that city's fire marshal would have to approve that particular site, which may or may not be up to county standards; **Chief Burnette** affirmed same. The Chair further stated that the county fire personnel is dispatched to fight/extinguish fires that are within city limits anyway; Chief Burnette affirmed same.

Commissioner Thomas asked if these industries are required to give advance notice on the location of some of the storage areas for these batteries; **Chief Burnette** responded affirmatively and added that it is part of the Building Plan Review process. The District 4 Commissioner asked if the Fire Escape Plans would be conspicuously posted and if there would be similar postings on where the lithium batteries would be stored on-site. **Mr. Hanes** responded that the advantage of these ordinances is that during the Plan Review process and having them classified as hazardous materials, they would be required to identify their location on the plans, which will be stored for records purposes with accessibility by the Fire Department and Building Department. The Commissioner did remark that there will be special equipment needed to put these fires out, especially with taking a significantly larger amount of water to put these types of fires out; Chief Burnette clarified that the department is not requesting any special equipment – only to try and get ahead of any potential disasters by implementing standards through an ordinance. If a fire were to break out, these practices would be in place and would be critical in giving people more time to escape safely.

Commissioner Anglyn asked about the implementation process for the industries already in place and then moving forward; **Chief Black** responded that the ordinance will address both existing and new construction projects. He went into some detail about that to quantify the response.

Chair Harrell asked where the ordinance would be placed; **Mr. Hanes** responded it would be in the Fire Prevention section of the County's Ordinance, not within the ULDC.

Commissioner Anglyn moved to adopt the regulations regarding lithium-ion batteries and metal batteries; **Commissioner Thomas** seconded the motion. Motion carried (5-0-0).

Ordinance #23-03

HUMAN RESOURCES

Resolution of the Board of Commissioners to approve and adopt the Henry County Employee Classification and Compensation Plan provided by Evergreen Solutions, LLC effective July 1, 2023 (Presenter: Harold Cooper, Human Resources Director and Kristen Gilley, Senior Consultant, Evergreen Solutions, LLC)(Exhibit 11)

Harold Cooper, HR Director, appeared to present the Resolution for the Board. He introduced the principal consultant on the Class & Comp Study, Kristen Gilley, as well as HR Specialist, Callie Callocchio, both of whom have worked on this project with staff participating in the various surveys. Mr. Cooper noted that the county has 1,728 full-time employees; 1,282 of those employees live in Henry County. There are 757 Public Safety employees; 646 of those employees live in Henry County. From a market data study perspective, the employees would be brought to where they need to be and 74% of employees living in Henry County are providing service delivery to the 252,000 citizens in Henry County. He then yielded the floor to Ms. Gilley.

Kristen Gilley, Senior Consultant, Evergreen Services, LLC, approached to go over the details of the study. The initial study meeting with relevant staff and management was in August 17, 2022. She then highlighted the assessment of current conditions where the current system is organized. On-site interviews and focus groups were conducted during September 2022, mainly for a sampling of the employee groups/outreaches, which had good responses. During the employee outreach, concerns about salaries for entry level employee positions were viewed as very low which made it difficult for recruitment. Another concern noted was accurate job title/description and limited career progression in some instances. A Job Assessment Tool was released after the focus groups to provide data on the roles and responsibilities of each classification. After gathering Market Study Survey results, a plan was developed to be competitive at the 80th percentile and add consistency in structure. Ms. Gilley pointed out that two (2) plans were developed, General and Public Safety (which would now include the Jail, previously separated). She then presented the proposed General Plan and the Public Safety Plan with associated step progressions in place.

Ms. Gilley moved to the Implementation Options on transitioning employees, with pros and cons of such implementations. When it came time to present the costs associated with the implementations, Ms. Gilley advised the Board that the costs will vary and that the numbers include the vacancies and the costs are for salary implementations only and does not include benefits. It is recommended to use the Class Year Parity which is the most affordable option, at about $8.6 million dollars, with vacancies included. On the part of Evergreen, Ms. Gilley listed their recommendations. She then presented the recommendations for what the county should do, as determined by the results of the Class & Comp Study.

Commissioner Wilson asked if all of the department directors have seen the same presentation viewed today; **Mr. Cooper** responded that all of them have not yet seen it. The District 1 Commissioner asked for their input after viewing it from each department; he also requested a copy of the presentation and review same. He further recommended to table this item to give the Commissioners time to better review and to answer their questions. **Ms. Gilley** asked if there are specific concerns in any of the departments; the Commissioner responded that there is so much information in the presentation and he would like to have an opportunity to further examine it. Mr. Cooper stated that a general overview was given at the retreat and this process which was displayed today has been transparent since the first meeting; everyone had an opportunity to participate. Ms. Gilley added that she held meetings with different directors in January or February to discuss the various classifications within their respective departments.

Commissioner Anglyn thanked Mr. Cooper for putting this together as it answered a lot of his questions, mostly the salary compensation and then the compression issue.

Kevin J. Lewis, Vice Chair/District 5 Commissioner, asked to see the breakdown of the numbers per department as he will want to review this if this is to be put for approval; he believes that the total amount needed will be over $10 million dollars, taking into account taxes and such. Henry County currently has 239 vacancies which constitutes a huge gap in employment and the compensation portion must be addressed; seeing this presentation points them in the right direction in the Vice-Chair's opinion and he would like to see those numbers broken down to further review same.

Commissioner Thomas stated that she requested this report yesterday and agrees the compression factor must be addressed, noting that these salary numbers do not include benefits and that is needed as well. She expressed further concern on the 3 days of interviews, to which **Ms. Gilley** responded that there were two (2) consultants running concurrent interview sessions during those 3 days. The District 4 Commissioner noted that she is concerned that the focus group is a small sampling. She wanted to know if the implementation will be phased in or all at once. **Mr. Cooper** stated that there are 1,740 letters ready to go to every employee when this is adopted with the current grade and class on each letter and what it would be under the new plan, with pay grade and job classification identified. Employees would have an opportunity to appeal, which will be handled before any application of the actual process takes place. The Commissioner agreed with the District 1 Commissioner that they do need more time to go over this more thoroughly and agrees with the Vice-Chair that a breakdown is needed as well.

Commissioner Anglyn expressed his appreciation and that he will take this seriously for the employees and will try to push the number higher.

Ms. Matthews stated that staff has provided sufficient information thus far and would like to know specifically what the Board needs such as the District 1 Commissioner's request for directors' inputs. She stated that the HR Director and staff have been very diligent throughout this process and included the department directors in same. Based on the attendance at today's meeting and staff members that are present, it is incumbent to have the Board make a decision today. There will not be another Board meeting until April 18th if they do not vote upon this today; if that is the case, the County Manager asked what the Board specifically needs for further review of this presentation. At the April 18th meeting, she hopes that the Board will be prepared and have had enough time to review the presentation so that a decision can be made on this matter. Earlier today, there was a Workshop Meeting with the Board for the Budget. A $10.5 million dollar allocation was presented for the Class & Comp Study as a result of keeping the millage rate at its current level and ensuring that the departments could work within their means. The funding is allocated and does not need anything from Fund Balance; a study was done at the request of the Board in seven (7) months. Opportunities were afforded to every employee who wanted to be part of this process; the focus groups also had opportunities for employees to participate, even having after-hours focus groups to accommodate those employees who could not make the regular scheduled groups. **Chair Harrell** gave an example of where police officers are now, where their salaries are and where they would go to; or, DOT workers' salaries, where they are for those various positions and where they would go. She states this would help the Commissioners determine the true impact for the employees. The Chair supports this Class & Comp Study and is ready to vote upon same, but there are other Board members who need to see more detailed information. This was discussed at the retreat and any questions considered should have been asked at that time as well.

Mr. Cooper asked if the Board needs the Pay Grade Assignments; **Chair Harrell** responded that would be part of what is needed, while **Commissioner Wilson** stated that he requests that and is in favor of employee salary increases. He would like more information on how this Class & Comp Study will affect those employees. **Ms. Gilley** added that the "Pay Grade Assignments" has what the current minimum to maximum is, the proposed grade, the proposed minimum/maximum and the differentials between the two. No ranges have decreased and there are no negative differentials. She pointed out the column that says "Midpoint Progression" and explained how each classification is slotted into a pay grade.

Chair Harrell announced that this item will be brought back on April 18, 2023 to give the Board time to get their questions answered and give this presentation further review. At that time on April 18th, there will not be a presentation; the matter will be put to vote. **Nancy Rowan, County Attorney,** advised that a motion to table, second and vote must be conducted.

Commissioner Wilson moved to table this item until April 18, 2023; **Commissioner Thomas** seconded the motion. Motion carried (5-0-0).

This Resolution was tabled. No action was taken.

PLANNING & ZONING

Public Hearing

Presentation by TSW of Atlanta, Georgia to inform Henry County citizens about upcoming meetings regarding the Henry County Comprehensive Plan 2040 Update, to include the planning process and opportunities for public input. Countywide. (Presenters: TSW of Atlanta, GA)(Exhibit 12)

Toussaint Kirk, Planning & Zoning Director, approached to give details on the needed update for the Comprehensive Plan which is due to the Department of Community Affairs in October. On February 7, 2023, the Board of Commissioners (BOC) approved TSW as consultant on this project and the initial meeting with staff took place on February 28, 2023. He yielded the floor to Ms. Harris from TSW.

Alison Stewart-Harris, AICP, Planning Studio Manager, TSW of Atlanta, approached to give an update on the Comprehensive Plan. The county has a deadline of October 31, 2023 to turn in the Comprehensive Plan. The goal is to assist staff with making decisions with better information through the Future Land Use Map (FLUM) and Transportation Plan (to name a few). She gave a presentation on possible strategies to update the Comprehensive Plan and what factors will determine any changes. This will not change the zoning and does not force any changes on private property. She presented the tentative schedule of meetings with opportunities to participate, information which can be obtained at the Planning & Zoning website for Henry County.

Vice-Chair Lewis wanted to better understand how this works and would like to be involved in this process going forward. **Ms. Harris** stated there will be three (3) Public Workshops to be advertised in the website.

Chair Harrell opened the floor for Public Hearing. Persons wishing to speak in favor of the update to the Comprehensive Plan will have three (3) minutes to address the Board. Anyone wishing to speak in favor of this request is to come forward and state their name. *No one came forward.*

Chair Harrell asked if there is a motion to be done tonight; **Stephanie Braun, County Clerk,** responded that there is no motion for this matter tonight.

Several individuals requested to make comment

Chair Harrell allowed comments to be made by individuals and had them come up to the podium and asked that each person's name and address be stated prior to speaking to the Board.

Jocelyn Williams, 190 Banks Drive, Stockbridge, GA 30281, stated that she is a county employee and gets up early to go to work. She stated her concern is that traffic will be further negatively affected on a 2-lane road which has not been paved. While the growth is happening in the county, she stated that the infrastructure is too small to keep building. While this looks great on paper, in reality it is not so great and she asked how citizens can maneuver the traffic impact, she would appreciate it.

Kirk Emerson, 449 Midway Pointe, Ellenwood, GA 30294, approached with the concern that when he moved to Henry County, there was not a lot of development. While he agrees that growth is good, he does not agree with too much growth and does not want mass transportation coming into the county. He pointed out that 239 vacancies and compensation decisions are difficult and if that cannot be determined, perhaps the growth in the county should also slow down as it is not beneficial to the county or to himself. *(Applause)*

Jamaal Avery, 504 Shades Walk, McDonough GA 30253, approached and stated that in adopting the plans and studies, many amendments get attached until it becomes different than what it was originally. He asked how that will happen to this plan, going forward.

Marjorie M. Brown, 1755 Signature Court, Hampton, GA 30228, approached and remarked that there is a Comprehensive Plan and asked how mistakes can be avoided with the new plan that were made with the present plan. Crowded neighborhoods bring more people and more problems and she asked that it be taken into consideration to spread the growth more evenly throughout the county.

Monica Johnson, 902 Waterview Ct., McDonough, GA 30253, approached and expressed her concern about the safety in terms of access and availability of hospitals when needed in the area, or a grocery store closer to the area. She stated that this growth is not planned and officials only want the tax money and not care about their constituents. It was a place to build families and now the county has become a place for transient communities. *(Applause)*

Lourdes Kearney, 410 Schriever Ct., McDonough, GA 30252, approached and stated that there is a farm across the street from her subdivision that was recently sold; the builder is trying to build a total of 281 homes on that land. There is concern for the potential school zoning and traffic impact to become problematic. *(Applause)*

Henry L. Johnson, 902 Waterview Ct., McDonough, GA 30253, approached and gave recollection of when he first moved to Henry County. He asked how the new Comprehensive Plan will work and what assurances can be given without amending plan upon plan. He states that better planning needs to be done and should be smart and efficient in a way that can work for everyone. *(Applause)*

An unidentified female approached opposed to the Comprehensive Plan and asked that the Board be more careful in approving developments and that they should be better scrutinized. *(Applause)*

No one else came forward.

Ms. Gilley returned and invited the public to get on the mailing list and to come to their meetings to give their input. The state requirements for Comprehensive Plan are very light and the county is not required to perform an in-depth planning process. The county has invested a lot of money to overhaul the current Plan as it is not working as it currently stands. She stated that that a deep review over the past 10 years, past 5 years and so forth is being conducted to identify what went wrong and compare what happened to what is on the FLUM; transportation, traffic and sewer are also being reviewed diligently.

There was no vote on this matter; no action was taken.

ULDC-AM-22-08 (Public Hearing)

Ordinance by Henry County, Georgia, to amend the Unified Land Development Code of the Henry County Code of Ordinances to provide for new and/or amended definitions, regulating standards for special events facilities/special events, vineyards, and for other purposes. Countywide (Presenter: Kamau As-Salaam, Interim Assistant Director)(Exhibit 13)

Kamau As-Salaam, Interim Assistant Director, Henry County Planning & Zoning, approached to present the amendment to the Ordinance. The sections to be amended are 2.03.03, 4.03.27, 4.03.36 and 12.02.06.I.5. He displayed these for the Board and public viewing on these proposed amendments regarding special events facilities/special events, vineyards, wineries and where they will fit in the Supplemental Standards with their proposed definitions. Regarding the wineries and vineyards, Mr. As-Salaam gave an example that if he were to grow grapes in his yard, there would be no problem; however, if he were to produce those grapes and go through a process for the purpose of wine, that would be where the Ordinance regulations would be effective. While there are regulations for special events facilities existing, they are insufficient for wineries or vineyards. He then presented the staff proposal for lodges and event facilities as well as creation of vineyards with or without wineries to be added in the Supplemental Standards.

Mr. As-Salaam emphasized that the portion for the Supplemental Use defining functions for vineyards with wineries as important because this will tie lodges and event facilities together with vineyards to operate with wineries and without wineries, broken down in as much detail as possible to provide clarity. The noise ordinance also enforces operations hours to cease at 10:00 p.m. He then presented the regulations for operating vineyards, such changes to include going from 3 acres of land to 15 acres of land, and the requirement of a Conditional Use permit from the Zoning Advisory Board. The ZAB could also include its specific conditions on a case-by-case basis and will not have to include all applications for Conditional Use for vineyards to operate.

Mr. As-Salaam pointed out the section regarding limiting the number of special events allowed per year (5) and per month (1). This was written and added to the ULDC in 2017 which makes special event facilities essentially useless; however, this stipulation was largely ignored by property owners. The removal of the stipulation will take that away, but the other aforementioned stipulations (i.e., 15 acres/500' lot minimum, stop at 10:00 p.m., architectural standards, obtaining DOT approval) will need to be adhered. While this will enhance tourism in Henry County for those seeking these types of lodges/event facilities for special functions, it will also provide stricter standards to be followed in an attempt to reach a compromise between county and property owners/operators of these types of lodges/facilities/vineyards/wineries.

Chair Harrell opened the floor for Public Hearing. Persons wishing to speak in favor of the ordinance will have a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in favor of this request is to come forward and state their name. *No one came forward.*

Chair Harrell then called for persons wishing to speak in opposition of the request, to be given a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in opposition of this request is to come forward and state their name. *No one came forward.*

Mike Gresham, no address given, approached to oppose this as he believes that the minimum lot size is insufficient, that the standards set forth are not being enforced, that the limit of events per year is ignored; if these standards are to be enforced there should be measures in place to do stricter enforce. He further remarked that RA (Residential-Agricultural) zoned properties should permit event venues as they are for residential purposes and residents do not want to live near an event venue or a winery which he describes as a "glorified bar."

Jocelyn Williams, 190 Banks Drive, Stockbridge, GA 30281, returned to the podium opposing the proposed amendments to the Ordinance. She stated that if Code Enforcement is needed to attend to a violation, the complainant can call 9-1-1 on any noise ordinance violation. She further stated that there is an announcement next door inviting the public to know more about their community to come to these meetings. She provided further comment on opposing event venues in an RA zoned district; as owner/operators of event facilities and wineries have opportunity to speak on behalf of allowing them to operate, so do nearby residents have the same opportunity to speak in opposition. Ms. Williams remarked that the laws are to be obeyed and if they are violated, to call proper authorities and, in time, the Board would be made aware of these calls and they can investigate for themselves to make informed decisions.

If there are to be changes in the law, the community must become more involved in attendance to meetings such as these and to make comments regarding same.

James Garner, no address given, approached and expressed appreciation for the work put into this and the "attempt" to rectify something that is ongoing in Henry County. He remarked that there were some things not addressed in this presentation, such as enforcing the ordinance. He believes this needs more work done to it, to gain support from residents.

Mark Stevens, 405 Rocky Creek Drive, Hampton, GA 30228, approached and reiterated the comments from a previous speaker. He states that the residents worked hard to get the issues resolved in 2017 and in the last couple of years, nearly every weekend there is loud music all night long, past midnight and nothing is done about it. He does not know if there is anyone who can be called to resolve this issue which has been ongoing. He states that a 15-acre lot minimum is not big enough.

Chair Harrell closed the Public Hearing and called for questions or comments from the Board.

Commissioner Wilson referred to Table 4.03.27(C) New Standards for Lodges and Event Facilities and noted the 500' minimum lot width; he asked about the requirement on the road frontage. **Mr. As-Salaam** explained that the minimum road frontage for any property in Henry County is sixty (60') feet. There are "flag lots" which allow 60' of road frontage to get behind other properties and then expand out to the minimum lot width. The District 1 Commissioner expressed concern on flag lots where there are houses beside the driveway or on either side of the driveway. He recalled that the reason for the amendment to the Ordinance in 2017 was due to the noise and dust issues because of traffic coming up and down the driveways. Having a 60' road frontage will only result in the same issues with noise and dust if there are houses on both sides of the driveway. Then, people are driving to a venue where alcohol will be served and they will leave and if these amendments are going to be approved, then a standard should be included where the event facility owner/operators hire police officers to control the noise, alcohol consumption and then subsequent driving and ending these events at the stated time in the Ordinance. Addressing the road frontage concern, Mr. As-Salaam suggested another road frontage minimum to be added, perhaps increasing to 100-150', at the Board's direction. The Commissioner recommended having the frontage to be far enough away from other structures when they are adjacent to event venue/facility properties. Mr. As-Salaam explained that the minimum lot width for RA zoning is one hundred seventy-five (175') feet; Commissioner Wilson stated he would support that. Regarding the hiring of security/police officers for each event, Mr. As-Salaam does not know what legal ramifications there would be or if it would have to be a private hire and Planning & Zoning could look further into this as well and discuss same with legal officials to discuss benefits vs consequences of such action. The Commissioner remarked that it may help provide relief from liability for the property owner/operator.

Chair Harrell noted that there is a time set in the Ordinance when noise activity has to stop (10:00 p.m.). **Mr. As-Salaam** explained that the original Code was not tied to the present noise ordinance standard and did not specify that events would need to be shut down by 10:00 p.m., as is stated in the amendment. Despite a shortage in the Police Department, they do the best they can and a lot of the after-10 violation is ongoing because no one is calling to report them to Police Department or to Code Enforcement. Consistency in calling to report after-hour violations will result in tracking ability for the county to pinpoint the location(s) where the violation is occurring and reported, in an effort to strengthen enforcement of the noise ordinance.

Referring to a venue/facility hiring security/police officer, **Chair Harrell** remarked that it should apply to all businesses that sell alcohol, such as restaurants that serve alcohol, and then have people drive home under the influence. If this is going to be required for one, then it should be required for all places that sell alcohol. The Chair stated that people should be responsible while drinking and not drive, or not drink alcohol if they are driving.

Vice-Chair Lewis asked if the current language in the Ordinance does not have a cutoff time for noise; **Mr. As-Salaam** responded that technically there is a noise ordinance but including this in the ULDC will give Code Enforcement and Police Department more authority to enforce same. Discussion could be held with Code Enforcement and Police to see whether or not there is a better alternative, but this is an attempt by Planning & Zoning to resolve the noise at night. As of right now, the 10:00 p.m. cutoff time is not in the ULDC; it is in the Noise Ordinance in the Henry County Code of Ordinances but it appears to not be sufficiently enforced upon these event venue/facilities.

Commissioner Anglyn advocated for Code Enforcement as they have been effective in District 3. He asked for a definition of "lodge" to be included in Appendix A. **Mr. As-Salaam** responded that there may be a definition listed already but he will double check and come back to that. The District 3 Commissioner noticed that it does not list a definition in the packet that the Board currently has. Regarding wineries, if they make 40% of their annual production from agricultural produced and grown in the state where the winery is located, there is another winery in north Georgia open and recently opened a second location in Valdosta; that new location did not last even though all requirements were met in Valdosta. The District 3 Commissioner suggested a minimum production in comparison with acreage should be discussed later. Mr. As-Salaam stated that he will meet with each Commissioner and get their concerns listed. He explained that the amendments to the ULDC will not satisfy everyone but it does leave room to try and find an amenable compromise, with the alternative (should one not be reached) to eliminate wineries, vineyards and event facilities in RA zoned districts.

Mr. As-Salaam advised the Chair that a motion should be made to either table, approve or deny this request.

Commissioner Anglyn moved to table this item to the April 18th meeting; **Vice-Chair Lewis** seconded the motion. Motion carried (4-0-1).

*(**Commissioners Wilson, Anglyn, Thomas** and **Lewis** voted to table this item; **Chair Harrell** abstained from this vote)*

This item is tabled until April 18, 2023 regular BOC meeting.

RZ-21-35 (Public Hearing)

Alliance Residential Company of Atlanta, GA requests a rezoning from M-1 (Light Manufacturing) and C-2 (General Commercial) to RM (Multi-family Residential) for property located on Highway 155 west of Greenwood Industrial Parkway in Land Lots 254 and 254 of the 7th District. The property consists of 47.438+/- acres, and the request is for a multi-family apartment development. District 5 (Presenter: Kamau As-Salaam, Interim Assistant Director)(Exhibit 14)

Mr. As-Salaam presented the request to the Board along with the timeline of meetings prior to the presentation. ZAB approved this request on January 20, 2022. Also presented was the latest Site Plan which showed less parking spot and different orientations of the building. The zoning request is for multi-family residential development; FLUM has this property designated as MU (Mixed Use) which does support the RM (Multi-Family Residential) zoning district. The applicant proposes eleven (11) buildings, 330 units of apartments for a rental community with a Net Density of 7.92 dwelling units per acre. The maximum allowable Net Density is sixteen (16) units per acre. A large portion on the western part of the property will be dedicated for open space. There will also be a portion of the property zoned C-2 (General

Commercial) and lies within the boundaries of the Highway Corridor Overlay District, thereby requiring the entire development to meet those standards pending rezoning. The development will have increased buffer standards by condition and by site plan. The applicant will also be required to preserve right-of-way for future Georgia Department of Transportation (GDOT) widening of Hwy. 155. This property, as currently zoned, could develop a logistics center or a warehouse with commercial outparcels along Hwy. 155. Mr. As-Salaam then presented renderings of the building appearances for the Board as well as the comments from different departments, noting that the comments from the School Board are a bit inflated.

Mr. As-Salaam reiterated that Zoning Advisory Board recommended approval of this request on January 20, 2022; staff also recommends approval with thirty-one (31) conditions. He noted that Condition #3 specifically assures that the developer may not apply for any permits until the multi-family moratorium has been lifted.

Vice-Chair Lewis asked how much of the property is to be dedicated to green space; **Mr. As-Salaam** responded that based on this Site Plan, the amount of open space including the ponds and streams is approximately thirty-two (32) acres. The first plan had a lot more impervious surface but this plan features more greenery. The applicant is agreeable to all 31 conditions set forth.

Chair Harrell remarked that this will basically be a choice between a warehouse or apartments to develop on this property; **Mr. As-Salaam** added that the developer will speak on this when they present but they wanted to bring something that was not affordable housing, per se, but more affordable that others that were recently presented. He stated that people who work at these warehouses (such as Luxotica) need a place to live and staff was satisfied with this product with the stated conditions.

Chair Harrell opened the floor for Public Hearing. Persons wishing to speak in favor of the request, including the applicant, will have a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in favor of this request is to come forward and state their name.

<u>In Favor</u>

Andrew "Andy" Welch, III, Partner, Smith, Welch, Webb & White, appeared in representation of the applicant. He stated that the request was approved by the ZAB and by Planning & Zoning staff. He presented remarks in favor of this request for the Board. About 60% of the property will be reserved for pocket parks and green spaces. He introduced Noah Randall with Alliance and yielded the floor.

Noah Randall, Managing Director, Alliance Residential Company, approached and stated that Alliance is a national company and has a lot of strength and stability. No project was left undeveloped in their charge and only quality product is developed. He views the development as a way that renters can use this as a stepping stone to attain homeownership in the future. He highlighted that this is a unique opportunity with 47 acres and only to develop about 1/3 of that land, with only 7 units per acre. He presented the previous Site Plan for comparison to the present Site Plan for this development. He stated that there would be several amenities and presented slides to highlight them as well as a rendering of the interior of the units. He then yielded the floor back to Mr. Welch.

Mr. Welch returned to the podium and explained how improvements were made from the previous Site Plan to the present Site Plan. He presented further details regarding entrance and exit, how it would maximize traffic flow; adding that the development will be gated. The makeup of the apartments will be half 1-bedroom, half 2-bedroom, gearing towards professionals. He also pointed out that recently a large-scale manufacturing facility will be located less than a mile and a half from the development and pointed out same on the Site Plan. Mr. Welch confirmed that applicant agrees to all stated conditions.

Chair Harrell then called for persons wishing to speak in opposition of the request, to be given a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in opposition of this request is to come forward and state their name.

In Opposition

Cynthia Jewell, 925 Mystic Way, Hampton, GA 30228, spoke in opposition of the development. She had concerns with the population that would affect the schools in the area. She is concerned with the performances of overcrowded schools and asked that no additional apartment complexes be approved for the same reason. She further stated that what renderings are presented for consideration are not necessarily followed to development and will attract criminal element, thus providing reason for her opposition of this request. *(Applause)*

Joshua Echoff, 341 Lara Lane, McDonough, GA 30253, approached and presented reviews against the applicant. He shared pictures from his cell phone and stated that when there were issues with the rental units developed by the applicant, complaints were posted that the applicant was unable to be reached and/or non-responsive. He asked that the Board take this into consideration when voting upon the request.

Jamaal Avery, 504 Shades Walk, McDonough GA 30253, returned to the podium and stated that when this original Site Plan was proposed, he opposed it and he opposes the present Site Plan as well as all apartment developments in Henry County. While the intent is to reach a certain demographic, that target base does not move in and the property management is forced to decrease the rent low enough to attract undesirable tenants. Mr. Avery urged the Board to understand that their constituents "are tired," that students and the roads are not safe. *(Applause)*

Lisa Ward, 771 Peninsula Overlook, Hampton, GA 30228, spoke in opposition of this development. When the applicant stated they are a large company, she found that to be a concern. Developments such as the proposed will be built but will be poorly maintained and she receives many complaints when applying for occupancy in one of her rental homes. She stated that the area does not need such development and that it seems to always want to locate in District 5. Ms. Ward spoke in strong opposition of this request for development and added that there are four (4) other Districts in Henry County yet these developments keep coming to District 5. *(Applause)*

Brian Rountree, 580 Chambers Road, McDonough, GA 30253, spoke in opposition of this request. He stated he has seen the growth in his community with so much traffic. He stated that the drawings are attractive but are not favorable when actually developed. *(Applause)*

Chair Harrell advised that 10 seconds remained on the clock for speaking in opposition. **Jocelyn Williams** returned to the podium in opposition and urged that they get together and present with a better solution. *(Applause)*

Chair Harrell called Mr. As-Salaam and the applicant up to the podium. She asked about the conditions placed on the request for rezoning. **Mr. As-Salaam** specified Condition #3 and summarized that no multi-family permits can be issued until the moratorium on them is resolved; a traffic impact study has to be performed; 70' of right-of-way will be preserved for future road widening; there will be walkable sidewalks which is required by the Overlay District; residential uses will be limited to resort-style apartments. Other conditions such as the requirement that the community be gated, go before the Architectural Review Committee prior to issuance of permits; conditions on amenities and office space for residents; 50% of the amenities are to be provided and built before 50% of the apartment units have been issued; requirements for pocket parks and connected sidewalks; watershed protection conditions – all stated in the conditions that attach to this development and will be seen throughout a lot of rezoning requests for multi-family uses. Mr. As-Salaam explained that Planning & Zoning is attempting to reduce the number of conditions placed on developments by having them included in the ULDC to cut on repetition from request to request.

Chair Harrell heard a lot of commentary about the schools, roads/traffic and acknowledged the condition regarding a traffic impact study requirement; letters were received regarding impact upon the nearby schools with these developments. **Mr. As-Salaam** stated that the Infrastructure/Public Safety section of the presentation included a section for School and since this project was done and the comments from the School Board was issued, the School Board has changed its algorithm on calculating developments impacting possible number of students at the nearby schools. Theoretically, 1- and 2-bedroom apartment units will probably have kids but the development is not necessarily meant to attract families, so the numbers presented by the School Board may not be very accurate.

At this point, the Chair asked everyone in the audience to be respectful or they will be asked to leave.

Mr. As-Salaam stated that Planning & Zoning does look at all commentary from the various departments regarding infrastructure and Public Safety and each request is evaluated. Staff does recommend approval of this development and added that it cannot deny such requests solely based on traffic impact, adding that SPLOST and GDOT are doing their best to mitigate and resolve those concerns to the best of their ability.

Commissioner Anglyn asked if this follows the FLUM; **Mr. As-Salaam** responded that it is within requirements. The District 3 Commissioner stated that the developer could have built 16 units instead of the 7.92 proposed dwelling units per acre. Mr. As-Salaam explained that the lower density is because of the natural floodplain and wetlands that must be protected. Medium Density Residential goes up to 6 units per acre, while High Density is 16; there is no Density in between that and staff is working to create one. The 31 conditions should suffice in bringing a quality product. The Commissioner remarked that if this is denied for multi-family residential, and Mr. As-Salaam interjected that a second Luxotica would be built with more truck traffic.

Commissioner Wilson remarked with the options of warehouse or multi-family, impact on services must be looked at and weighed for both options. He stated that multi-family would require a lot of county services, such as Police, Fire, Code Enforcement, traffic impacts and possible increase of students in the schools. Public Safety's call volume increases an average of 2% each year based on the residential single-family and multi-family moving into the county. He would support keeping the property to M-1 (Light Manufacturing) because of the impact on county services that would be attached with multi-family or single-family residential. *(Applause)*

Chair Harrell asked for the current zoning of this property; **Mr. As-Salaam** responded that it is currently zoned M-1 throughout most of the rear and western portion and, pointing to the zoning map, the rest is zoned C-2. The Chair remarked that it could be warehouse and commercial. Mr. As-Salaam stated that there could be commercial lots up front and a warehouse behind it. It does not mean that will happen but the property is already without conditions; if a warehouse is built and meets with Code, the county would have zero input over it. **Vice-Chair Lewis** repeated that the county would have no input if a warehouse was put there. Mr. As-Salaam stated applicant could apply for permits the next day if a warehouse is built and the Board would have no input on that. When asked about the commercial portion, Mr. As-Salaam responded that it would be the same outcome as a warehouse – no input and no conditions could be put in as this is not a rezoning for a warehouse. The property is located in the Overlay District so there will be prohibited uses with different standards but the Board would not have any further decision opportunity on it. The Chair stated if a warehouse is built, it could mean more trucks on the road; and this would happen because there has been no updating of the Comprehensive Plan since 2018; Mr. As-Salaam affirmed same. Mr. As-Salaam also stated that it is important to start including some of these conditions into the ULDC and make them standards to better protect the county.

Chair Harrell asked what legal repercussions would happen if this request was denied for multi-family residential rezoning. **Nancy Rowan, County Attorney,** responded that a constitutional right document would be filed in court and the Board would have to show cause for the denial of the rezoning and the court would review whether or not the Board violated any of applicant's constitutional rights or processes. She explained how the court would review the constitutional rights document and determine whether the Board denied for either arbitrary or capricious reasons. If the court finds in favor of the applicant, the property would get rezoned possibly without conditions.

Commissioner Anglyn asked about a deadline for one of the parts of the rezoning and **Mr. As-Salaam** responded sometime in October but was unsure of the date, but it would have to be approved at one of the BOC meetings held in October for the ARC. If it can be done sooner, that would be better. The District 3 Commissioner remarked that it would not apply to anything already in process; Mr. As-Salaam affirmed same.

Mr. As-Salaam added that staff tries to condition these projects to be the best that they can, going forward, either through the ULDC or the Comprehensive Plan. **Chair Harrell** noted that many of the issues on Jonesboro Road pre-dated several of the Board members presently serving; however, they are in a position to redo the ULDC and try to handle these issues that have been ongoing.

Vice-Chair Lewis acknowledged the Planning & Zoning staff, as well as the applicant and Mr. Welch as their representative. He stated that while he listens to his constituents, he also has to weigh what could happen in working towards putting the best possible product in these empty parcels of land. The best thing would have been to change the FLUM years ago, to avoid this particular crossroad. He believes that this rezoning request is the best option for this property, as 155 is already overloaded with truck traffic and the road will be widened in the future, at a cost of millions of dollars.

Thus, **Vice-Chair Lewis** moved to approve the rezoning with the stated 31 conditions; **Commissioner Anglyn** seconded the motion. Motion carried (3-2-0).

*(**Chair Harrell, Commissioners Anglyn** and **Lewis** voted in favor; **Commissioners Wilson** and **Thomas** voted in opposition)*

Resolution #23-116

RZ-21-36 (not a Public Hearing)

Hecht Walker Jordan, P.C. of Stockbridge, GA requests a rezoning from C-2 (General Commercial) and OI (Office-Institutional) to MU (Mixed-Use) for property located on Jonesboro Road east of Chambers Road in Land Lot 109 of the 6th District. The property consists of 21.5+/- acres, and the request is for a mixed townhome, apartment, and commercial development. District 5 (Presenter: Kamau As-Salaam, Interim Assistant Director)(Exhibit 15)

Mr. As-Salaam returned to give details on this rezoning request. The property has a FLUM designation of MU (Mixed Use) and the intersection at Chambers and Jonesboro Road is the last portion of MU or High Density Land Use designation on the western side of Jonesboro Road. He then displayed the Timeline of Events for the Board and public viewing. On January 20, 2022 the ZAB recommended approval. On August 16, 2022, the project was tabled by the BOC after the Public Hearing. The applicant requests the rezoning for a Mixed Use development. Mr. As-Salaam then displayed the Site Plan where the applicant is requesting one (1) commercial outparcel, twenty-four (24) townhomes and 300 apartment units, at 15.8 dwelling units per net acre. He then displayed the revised Site Plan, submitted after the January 2022 ZAB meeting which included street level commercial along Jonesboro Road and leasing offices fronting Jonesboro Road on apartment units, 265 multi-family apartments and seventy-eight (78) fee simple townhome units, with a Net Density of 15.5 dwelling units per acre. The FLUM allows a Net Density of up to 16 dwelling units per acre.

Mr. As-Salaam then displayed the proposed renderings for the appearance of the development, apartments, commercial/retail, and that the developer wishes to show a more modern style with low-sloped, or flat, roofs, and townhomes done in a modern farmhouse design. This property is within the Overlay District and requires the developer to install multi-use path along the right-of-way, including street trees, pedestrian lighting and 8-10' sidewalks. The Infrastructure and Public Safety slide showed the relevant departments' comments. With the extension of Flippen Road to happen, right-of-way acquisition has been completed and SPLOST is waiting for environmental studies to be completed; the construction of the extension for Flippen Road is expected to begin in October. There will also be a Jonesboro Road widening and that is in preliminary process; the final plan for widening is expected to be done by December 2023 with right-of-way acquisition to begin in January 2024 and construction to start in 2025.

Mr. As-Salaam restated that on January 20, 2022 the ZAB recommended approval of this request to rezone from C-2 (General Commercial) and OI (Office-Institutional) to MU with staff conditions. This property has maintained those zoning designations since 2004 and has been vacant. On August 16, 2022, the Board tabled this request following the Public Hearing. Planning & Zoning staff recommends approval of this request with forty-six (46) conditions. The original report only outlined forty-four (44) conditions (presently in the packet that the Commissioners have) and the changes are being displayed now, as follows:

23. The minimum heated square footage of a one-bedroom apartment shall be 640 square feet.

45. For the fee simple townhomes, an HOA shall be required. A copy of the recorded covenants shall be provided to the Building & Plan Review Department before final plat is approved.

46. The townhome section shall be developed as an owner-occupied community. No more than ten (10%) percent of the homes may be rented or lease-purchased at any one time.

Mr. As-Salaam pointed out that Condition #3 does have the stipulation that no permits can be pulled until the multi-family moratorium is lifted. Many of the conditions are already in the ULDC but were repeated to give transparency especially since the property is within the Overlay District. Planning & Zoning hopes to rewrite the ULDC to eliminate most of these repetitive conditions and make them standards within the Code. He went through some of the Conditions that are standardly within rezoning requests from case-to-case, and explained that these are to be included in the ULDC so they do not have to be repeated as staff-recommended conditions going forward.

Commissioner Anglyn asked if this will change the FLUM; **Mr. As-Salaam** responded that it will change to MU zoning and would like to see more of the commercial Mixed Use developments. He also pointed out one condition that needs modification, as follows:

*5. Developers shall coordinate with Henry County DOT and SPLOST to **dedicate** right-of-way (if necessary) for future road widening before the issuance of land disturbance permits.*

Mr. As-Salaam stated that the language (from "preserve" to "dedicate") will be noted in the conditions if this project is approved.

Chair Harrell called the applicant forward.

Greg Hecht, Hecht Walker Jordan, P.C., 205 Corporate Center Drive, Stockbridge, GA 30281, approached on behalf of TPA Residential. He stated how this development will be similar in appearance to some of the more upscale communities in the Atlanta area.

At this point, the County Attorney reminded the Board that this is not a Public Hearing; the applicant is called up to answer questions from the Commissioners and/or the Chair.

Chair Harrell called for questions from the Board to the applicant.

Vice-Chair Lewis remarked that prior to his election to the Board and after hearing feedback from residents within District 5 this week, that there would be no apartments situated past the Firehouse Subs on Jonesboro Road. He asked the applicant to address that. **Mr. As-Salaam** responded that Planning & Zoning staff makes recommendations off of guiding books – one of them is the land use map which does not show a lower density past Firehouse Subs, but does show lower density after passing the Publix. He cannot speak to anything that might have been promised but he does speak as to staff's recommendations with guidance from the FLUM. The District 5 Commissioner clarified that this particular piece of property, as shown on the FLUM, is High Density MU; Mr. As-Salaam affirmed same and added that the MU designation of this property is specific towards having a collection of uses in one place. This request does meet the Net Density of 16 dwelling units per acre.

Chair Harrell asked that if there was some type of promise made against High Density going past the Firehouse Subs, why that was not changed in the ULDC; **Mr. As-Salaam** responded that the ULDC was last updated in 2018 and Planning & Zoning staff made no such promises. When the ULDC is updated, he hopes that the residents/constituents will come out and provide feedback to help staff make the changes to the ULDC – particularly with issues regarding Medium Density on this side of Jonesboro Road and allowable zonings therein. He further emphasized that staff did not promise there would be no further High Density projects past the Firehouse Subs.

Commissioner Anglyn recalls the meeting when this item was tabled. During that time, there was another Commissioner for that District. He asked if that former Commissioner met with Planning & Zoning staff and the applicant regarding this property. **Charles Moore, TPA Residential, 1776 Peachtree Street, Atlanta, GA 30309,** approached and explained that from the time the ZAB approved the request in January 2022 until August 2022, he attempted to reach out to the former District 5 Commissioner and were not able to successfully meet with him, either through phone or face-to-face. In meeting with Planning & Zoning staff, the developer did update the Site Plan as presented today and to model the development to that of Brookhaven, with a central green and a vertical mix of uses. There was no direct communication with the then-District 5 Commissioner despite several attempts on the part of the developer. **Mr. Hecht** interjected and stated that there were calls made but no <u>allowed meetings</u>. The District 3 Commissioner then asked where the recommendations originated; Mr. Hecht responded that he understood that they came from staff, in part, and from the then-Commissioner, in part, to staff.

Chair Harrell asked if there were conversations held about this particular development; **Mr. Hecht** replied that there were changes made to the Site Plan as a result of being told by staff through the former District 5 Commissioner; several revisions were made as a result of that request. **Mr. Moore** further clarified that the request for changes were made through staff, not directly through the former

Commissioner. The Chair asked with whom Mr. As-Salaam had conversation regarding this project; **Mr. As-Salaam** replied through the Director, Mr. Kirk. **Mr. Kirk** then approached and explained that conversations were had with the then-Commissioner and staff then came up with what is presented before the Board today. The matter was tabled by the BOC on August 16, 2022. The Chair pressed that these recommendations were initiated by someone. Mr. Kirk explained that staff originated some of them with input from the former District 5 Commissioner.

Commissioner Wilson disclosed that he is not a supporter of townhome developments as he feels it is a Public Safety risk for the residents of such homes.

Vice-Chair Lewis echoed that he is not a fan of apartments or of townhomes especially if those developments encroach upon residential districts. That said, what he saw presented today as well as the FLUM designation, he stated that this is a good looking project.

Chair Harrell asked the County Attorney what would happen if this request is denied; **Ms. Rowan** responded that the process is the same as advised in a prior matter – that the applicant has a right to file a petition and she was served with their constitutional letter today and that the BOC denial is violating their rights and it would be determined whether the denial was arbitrary or capricious; the Board would then have to defend same in Superior Court. **Mr. Hecht** added that this developer has agreed to 46 conditions imposed upon him; the constitutional notice was filed based on due process in protection of taking rights. The developer would like to move forward and present this development that would look similar to the upscale development in the Brookhaven area. If a different developer were to move forward, it is likely they would only adhere to FLUM standards and present a lesser quality product.

Chair Harrell asked for the current zoning on the property; **Mr. As-Salaam** replied it is currently zoned C-2 with a small section of it zoned OI. The OI portion would allow for medical offices and similar; upon looking at the history of the property, it seems to have been intended for some kind of large retail or grocery store which was never completed. There is now a Publix nearby and the property never developed. The Chair asked what can be developed on the site as of now; Mr. As-Salaam responded that allowable C-2 uses but that the property is within the Highway Corridor Overlay District so there would be requirements that would prohibit some of the allowable uses of C-2 zoning. **Mr. Kirk** clarified that commercial can be developed on this site. The FLUM which would be dealt with in the Comprehensive Plan amendment is what is desired in the future. When the Comprehensive Plan was updated in 2018, a Mixed Use was desired for this property (as indicated on the FLUM displayed). Since the commercial was not developing on this property, Mixed Use developing was proposed and subsequently presented, which got approval from the Zoning Advisory Board and Planning & Zoning staff.

At this point, **Ms. Matthews** remarked that there is a difference between the FLUM and the ULDC. The Future Land Use Map is the guide; the Unified Land Development Code is the development regulation. She explained that Mr. Kirk is referring to "future planning" when referencing the FLUM. There are many things outlined in the staff report that is examined, such as, schools, infrastructure, needs of the DOT, and these should be taken into consideration by the Board before making decisions on any future rezoning requests – whether or not those items are in place <u>today</u>. There are boxes to be checked when reviewing the requests and the Board should not be concerned about any legal reaction if the requests are denied; rather, whether or not this type of development can be controlled should be factored. *(Applause)*. Ms. Matthews continued that if the Board no longer feels that a Mixed Use designation is appropriate for this area, then either table this request or deny it. She specified that the Future Land Use Map does not cover anything in the present – rather, it is for the future (i.e., 10-15 or more years in the future). Staff has tried to list conditions to get a future feel but there are several criteria points the Board must review. She further pointed out that Vice-Chair Lewis has had every zoning request tonight since the locations are within District 5, and they have been repeatedly tabled. **Chair Harrell** interjected that they are getting handled. Ms. Matthews suggested that the District 5 Commissioner meet with the applicant and/or staff to further discuss and there could be a possibility of holding off on these until the infrastructure is in place, emphasizing that the Future Land Use Map deals with the future, not the present. *(Applause)*

Chair Harrell asked if the ULDC is to be followed in decision making on the rezoning requests; **Ms. Matthews** responded that the FLUM is the guide. In the past, when the FLUM supports the request, staff will recommend approval for that reason. In the staff report there is a set of criteria points taking into consideration whether or not the request is in line with the FLUM, impact upon infrastructure, impact upon nearby schools. Requests cannot be denied because of road issues, or population in schools; but consider that there is a piece of property currently zoned and there is nothing that would prohibit this particular developing from moving forward with their site and bound by whatever zoning regulations are currently in place. The question for the Board would then be whether or not the current zoning is appropriate for that area and if not, then the Board should approve the request based on same. The Board should not be concerned whether or not a constitutional challenge will be filed if they deny the rezoning request – for that is the attorney's job to deliberate and/or defend if necessary. The granting of zoning requests is not the responsibility of the hearing judge but that judge will advise the Board what they need to do if a ruling is in the applicant's favor. *(Applause)*

Vice-Chair Lewis moved to table this item until the meeting on April 18, 2023. He moves for this because a lot of residents in his District have communicated with him to discuss further. **Commissioner Anglyn** seconded the motion.

Chair Harrell remarked that many decisions like these are very difficult and agrees that there are a lot of apartment requests approved prior to the makeup of the present Board of Commissioners. She explained that many of her own staff lives in apartments and that stereotyping apartment residents as bad is not accurate, noting that there are police officers who also live in apartments. The Board is not against multi-family development but does want a high quality product similar to those being built in higher quality areas. She suggested a community meeting with the residents who live near this property to hear their feedback and share them with the developer and the District 5 Commissioner.

There being a motion, second and discussion, motion carried (4-0-1).

*(**Commissioners Wilson, Anglyn, Thomas** and **Lewis** voted in favor; **Chair Harrell** abstained from this vote)*

Item was tabled; no action was taken.

COMP-AM-22-11 (Public Hearing)

Barry Boyd of Griffin, GA; McGarity Investments, LLC of McDonough, GA; and James Sutherland of Forest Park, GA request an amendment to the Comprehensive Plan for property located north of Highway 20/81 West at International Avenue in Land Lots 157 and 158 of the 7th District. The property consists of 21.379+/- acres, and the request is to amend the Future Land Use Map designation from Low Density Residential and Commercial to High-Density Residential. District 5 (Presenter: Kenta Lanham, Planner II)(Exhibit 16)

Kenta Lanham, Planner II, approached to make presentation on the request for amendment on the subject property from Commercial and Low-Density Residential to High-Density Residential to support a concurrent rezoning request for apartment development. The property is currently zoned RM

(Multi-Family Residential), OI (Office-Institutional) C-1 (Neighborhood Commercial) and M-1 (Light Manufacturing). FLUM designation is currently Low-Density Residential and Commercial, which supports up to 2 dwelling units per net acre. The Site Plan for the concurrent rezoning was displayed, along with elevations. On March 10, 2022 ZAB recommended approval with conditions. Mr. Lanham explained that the applicant has already constitutional rights this morning and as of this morning, a copy of that was uploaded to the Civic Clerk. Request for High-Density Residential is required to support the concurrent rezoning request and the proposed density is 14.45 dwelling units per net acre. GDOT recently awarded a bid for widening of Hwy. 20/81, from I-75 to Phillips Drive which will take Hwy. 20/81 from 2 lanes to 4 lanes with a median, to be completed sometime in May 2025. Staff hereby recommends approval to amend the FLUM designation to High-Density Residential.

Chair Harrell opened the floor for Public Hearing. Persons wishing to speak in favor of the request, including the applicant, will have a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in favor of this request is to come forward and state their name.

<u>In Favor</u>

The applicant stated he would wait to make formal comment until the rezoning request was presented but wanted to highlight that he has coordinated on the Site Plan with Public Safety and GDOT regarding the road widening to ensure that everything is in place for that project and that associated multi-use paths and landscape buffers were identified and maintained as well.

Chair Harrell then called for persons wishing to speak in opposition of the request, to be given a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in opposition of this request is to come forward and state their name.

<u>In Opposition</u>

Carla Edens, 168 Prity Ct., McDonough, GA 30253 is opposed to this development, stating that even with the road widening, it will not be widened from this location other than to the Three Dollar Café and traffic will still be a problem, even with proposed 2 lanes because there will not be more lanes in the location from Creekwood to the Quik Trip, at only 3/10 of a mile which takes her about 30 minutes. She also pointed out the apartment complexes, namely Sable Chase and Hampton Point, where there have been issues with people living there coming into her neighborhood. She was involved in a recent shooting, and had to testify in court regarding same. Fencing in her neighborhood had to be heightened from 4' to 8' because of people from the apartment complexes near her property hopping the fence and trespassing through the community to use the pool. She states that the area is too congested to add more traffic and more apartments to this general area.

Angie Collins, 747 Peninsula Overlook, Hampton, GA 30228, spoke in opposition of the request. She stated that adding apartments to an already condensed congested space without the proper infrastructure first in place invites an undesirable caliber of people, who may be able to afford the rent on the short-term but not long-term. She relayed from a neighbor that a vehicle was stolen from the area and sped into her community. She also pointed out congestion even in the middle of the day and not during rush hour. She hopes that Jonesboro Road does not turn into "another" Tara Boulevard and hopes the Board will not approve all apartment complexes coming in to the county.

Joshua Echoff, 341 Lara Lane, McDonough, GA 30253, spoke in opposition of the request, citing past offenses within the area and that the officers are overworked and underpaid. He gave further example of criminal offenses in the area and not enough police response because they were handling similar calls elsewhere. He added that he has nothing against renters and that a lot of the resident homeowners started out as renters, but the proposed rent on these units are so high, they will attract multi-families crowded into one apartment unit just to afford the rental rates. While these developments are favorable, the infrastructure still needs to be completely in place.

Lisa Ward, 771 Peninsula Overlook, Hampton, GA 30228, spoke in opposition of this request, repeating that there is no need for another apartment complex in District 5. While there is no general opposition of apartment complexes, she states that there are enough, in excess of 30 already. She stated that the drawings are beautiful, the applicants tell the Board what it wants to hear and then they do something different than what was presented and she asked that it stop.

*Time having expired, **Chair Harrell** closed the Public Hearing.*

Commissioner Wilson asked if there is one or two entrances to this development; **Mr. Lanham** stated there is one entrance with a secondary emergency-only access on the east side. The District 1 Commissioner remarked that the Net Density of this development is 14.45 and surrounding that is anywhere from 8-10; Mr. Lanham stated that in reviewing the final plat and the previous zoning history, the maximum density is 10.

Commissioner Thomas asked how many units will go in; **Mr. Lanham** responded 267. The District 4 Commissioner asked where the closest housing unit will be to the buffer; Mr. Lanham stated that there is multi-family directly to the west and a little further east, and pointed out on the display for the Chair, the Board and public viewing. The Commissioner asked how wide the buffer would be; Mr. Lanham stated he did not have an answer right then.

Chair Harrell noted that in the area, there is Sable Chase, which is an apartment complex; she asked if Autumn Lake is also an apartment complex, and further asked that the location of the development be identified on the displayed map (this was done). **Mr. Kirk** approached and pointed out where the nearby apartment and multi-family units are located relative to the subject property.

Vice-Chair Lewis moved to approve; **Commissioner Anglyn** seconded. Motion tied (2-2-0).

*(**Commissioners Anglyn** and **Lewis** voted in favor; **Commissioners Wilson** and **Thomas** opposed; **Chair Harrell** abstained from this vote)*

Ms. Rowan advised the Board that the motion cannot end in a tie and either a motion to table or motion to deny must be called. Since this is a Comp Plan Amendment request, a tie vote cannot default to denial of the request and must have majority vote.

Vice-Chair Lewis moved to table the item to the meeting on April 18, 2023; **Commissioner Anglyn** seconded. Motion carried (3-2-0).

*(**Chair Harrell, Commissioners Anglyn** and **Lewis** voted in favor; **Commissioners Wilson** and **Thomas** opposed)*

Item was tabled; no action was taken.

RZ-21-38 (Public Hearing)

Barry Boyd of Griffin, GA; McGarity Investments, LLC of McDonough, GA; and James E. Sutherland of Forest Park, GA request a rezoning from RM (Multifamily Residential), OI (Office-Institutional), C-1 (Neighborhood Commercial), and M-1 (Light Manufacturing) for property located north of Highway 20/81 West at International Avenue in Land Lots 157 and 158 of the 7th District. The property consists of 21.379+/- acres, and the request is for a multi-family residential apartment development. District 5 (Presenter: Kenta Lanham, Planner II)(Exhibit 17)

Mr. Lanham presented the request for rezoning from RM (Multi-Family Residential), OI (Office-Institutional), C-1 (Neighborhood Commercial) and M-1 (Light Manufacturing) to RM (Multi-Family Residential) for the purpose of developing an apartment complex, as previously indicated in the request for the Comp Plan Amendment. The area map was displayed with the current zoning categories. The Site Plan was displayed, showing a mixture of 1-, 2- and 3-bedroom units, with a total of 267 units. Elevations were also displayed. Mr. Lanham advised the Board that a constitutional letter was also filed as of this morning and sent to the Civic Clerk. He gave a brief zoning history of the property for the Board. Regarding Infrastructure/Public Safety, comments from various departments were displayed. On March 10, 2022 the ZAB recommended approval of this request for rezoning with conditions. Staff has recommended changes to the conditions, to address concerns received from citizens regarding multi-family zonings and apartment complex developments, permitting and the multi-family moratorium. One of the conditions prohibits permit applications until after the multi-family moratorium has either been resolved or rescinded. Staff recommends a total of twenty-six (26) conditions with the approval.

Chair Harrell opened the floor for Public Hearing. Persons wishing to speak in favor of the request, including the applicant, will have a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in favor of this request is to come forward and state their name.

<u>In Favor</u>

The applicant approached and asked that this item be tabled to the BOC meeting on April 18, 2023 to be heard with the previous request for amendment to the Comprehensive Plan. **Ms. Rowan** advised that the Public Hearing has already started with the call for anyone to speak in favor of the request and therefore, the Public Hearing portion has to be completed prior to any vote. The applicant opted to continue with presentation to speak in favor of the request. He highlighted the practical connections and proximity to the highway, intent on attracting demographic that can afford the rent for a high quality product. He presented the unit mix and the rent analysis for the market.

Chair Harrell then called for persons wishing to speak in opposition of the request, to be given a collective total of ten (10) minutes to address the Board. Anyone wishing to speak in opposition of this request is to come forward and state their name.

<u>In Opposition</u>

Angie Collins, 747 Peninsula Overlook, Hampton, GA 30228, returned to speak in opposition of this rezoning request, citing increased crime activity as a reason and gave an example; however, she relayed that in speaking with a police officer, she was told that crime in Henry County is low unless it is domestic violence. She expressed concern over the caliber of people who will come in to occupy these apartments. She stated that she would rather see more homes being built in this area and not apartment complexes.

Lisa Ward, 771 Peninsula Overlook, Hampton, GA 30228, returned to speak in opposition of this rezoning request. She stated that there are too many apartment complexes within District 5. She asked the Board to deny this request for rezoning as there are too many within the District.

Vice-Chair Lewis moved to table this item until the BOC meeting on April 18, 2023; **Commissioner Anglyn** seconded. Motion carried (4-1-0).

*(**Chair Harrell, Commissioners Anglyn, Thomas** and **Lewis** voted in favor; **Commissioner Wilson** voted in opposition)*

Item was tabled; no action was taken.

Chair Harrell made a motion to amend the Ordinance and to direct staff and have them review the current Ordinance as it pertains to zoned, but not developed, properties. There will be a ZAB hearing scheduled on Thursday, April 13, 2023 at 6:30 p.m. and the Public Hearing with the BOC on Tuesday, April 18, 2023 at 6:30 p.m. She then called for a second. **Vice-Chair Lewis** seconded. Motion carried (5-0-0). The amendment is to §12.02.11 along with other sections. **Mr. Lanham** asked if the intent is to change that section or to be in accordance with that section; Chair Harrell responded that it should be in accordance with that section and to have staff review same and make any necessary changes. **Ms. Matthews** noted that the particular referenced section is for amendments to the Code and asked if the Chair wishes to direct staff to make amendments to that section. Chair Harrell stated that there needs to be changes and direct staff to look at the ULDC, bring back recommendations to amend it. The County Manager advised that the Chair must be specific as that part of the code gives any Board member the ability to direct staff, in a public meeting, to amend a code; that said, the County Manager is asking which code section is to be amended. **Mr. Kirk** advised the Chair that the next ZAB meeting is not until May and there is no meeting of the ZAB scheduled for April. Ms. Matthews asked what the Chair would like to have reviewed; the Chair began to give citation but Mr. Kirk intervened and explained that it has a July deadline and will be brought back to the Board. The County Manager explained that the Unified Land Development Code has multiple chapters and asked what specifically staff should review prior to the April 18th BOC meeting. The Chair responded with the development regulations and procedural law.

Mr. Kirk advised the Board that there will be hearing on a car wash, multi-family development standards, retention ponds and wineries. **Chair Harrell** asked if those can be reviewed by the Board and by staff; Mr. Kirk stated affirmatively. **Ms. Matthews** wanted to be clear on what the Chair is asking; Mr. Kirk restated that the review would be on the car wash, multi-family, wineries and detention ponds discussed during the retreat to be re-evaluated. **Vice-Chair Lewis** asked if a motion is needed to look at a part of the ULDC; Ms. Matthews stated that they do need a motion and that is the only way for staff to act upon it and bring it back to the BOC. The County Manager explained that this will have to be further discussed after the meeting because the request, as is, covers too much in general and she wishes to have specifics so that staff can comply with the Chair's request. The County Manager further advised that there is a provision in the Code that allows for the Zoning Advisory Board to make recommendations to the Board of Commissioners for properties that are zoned but not developed. The Chair agreed to same.

Ms. Matthews advised that there is a motion on the floor to direct staff to review the current zoning ordinance pertaining to properties that are zoned but not yet developed.

A motion, second and discussion made, motion carried (5-0-0).

PUBLIC COMMENTS

We welcome citizens to voice their county-related concerns and opinions regarding items which are listed on this agenda or on the previous regular meeting agenda. All persons wishing to speak during Public Comment must pre-register with the County Clerk in writing or via email: *sbraun@co.henry.ga.us* no later than 12:00 p.m. on the day immediately prior to the meeting. Each speaker will have three (3) minutes to speak. No member of the public shall be permitted to make personal, impertinent, slanderous or profane remarks to any member of the board, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any board meeting shall, at the discretion of the chair or a majority of the council, be barred from further audience before the board during that meeting.

No one signed up for Public Comment

APPROVAL OF MINUTES

Commissioner Wilson moved to approve the Minutes from the *February 21, 2023 Regular BOC Meeting*; **Commissioner Anglyn** seconded the motion. Motion carried (5-0-0).

UPCOMING MEETINGS AND EVENTS

A. Tuesday, April 4, 2023 (no meeting)

B. Tuesday, April 18, 2023, 6:00 p.m., Called BOC Meeting (re: City of Stockbridge presentation on Tax Allocation District)

C. Tuesday, April 18, 2023, 6:30 p.m., Regular BOC Meeting

EXECUTIVE SESSION

Chair Harrell called for Executive Session regarding litigation. **Commissioner Anglyn** made a motion to convene into Executive Session; **Vice-Chair Lewis** seconded the motion. Motion carried (5-0-0).

EXECUTIVE SESSION
(11:01 p.m.)

RECONVENE FROM EXECUTIVE SESSION

Commissioner Wilson made a motion to reconvene into Public Session; **Commissioner Thomas** seconded the motion. Motion carried (5-0-0).

RECONVENE
(11:03 p.m.)

AFFIDAVIT & RESOLUTION

Commissioner Wilson made a motion to approve the Affidavit & Resolution pertaining to Executive Session; **Commissioner Anglyn** seconded. Motion carried (5-0-0).

Added Item

Ms. Rowan asked the Board to approve an "opt-in" to the National Opioid Settlement Agreement by the Attorney General for the State of Georgia. **Vice-Chair Lewis** moved to approve the opt-in; **Commissioner Wilson** seconded. Motion carried (5-0-0).

ADJOURNMENT

There being no further business to come before the Henry County Board of Commissioners at this time **Chair Harrell** adjourned the meeting. ***Meeting adjourned at 11:05 p.m.***

Carlotta Harrell, Chair

Stephanie Braun, County Clerk