

**GUILFORD COUNTY  
PLANNING AND DEVELOPMENT**

**BOARD OF ADJUSTMENT MEETING MINUTES  
NC Cooperative Extension, Agricultural Center  
3309 Burlington Road  
Greensboro, NC 27405**

**October 3, 2023****Regular Meeting****6:00 PM**

The Guilford County Board of Adjustment met in regular session on October 03, 2023, in the NC Cooperative Extension, AG Center, 3309 Burlington Road, Greensboro, NC 27405, commencing at 6:00 p.m.

Chair Ditra Miller called the meeting to order.

**A. Roll Call**

The following Board members were in attendance in person for this meeting:

Ditra Miller, Chair; Willie Johnson, Vice Chair; Franklin Havens, and Larry Standley

The following Board members were not in attendance at this meeting:

Carey Campbell and Cory Randolph

The following staff members were in attendance in-person for this meeting:

J. Leslie Bell, Planning & Development Director, Kaye Graybeal, Deputy Director Planning & Development, Oliver Bass, Senior Planner, and Aaron Calloway, Planner I; Andrea Leslie-Fite, Guilford County Attorney; Matthew Mason, Deputy County Attorney

**B. Agenda Amendments**

Aaron Calloway stated that there were no amendments to the Agenda this evening.

**C. Approval of Minutes: February 7, 2023**

Mr. Johnson moved approval of the February 7, 2023, and July 11, 2023, meeting minutes, as submitted, seconded by Mr. Standley. The Board voted 4-0 in favor of the motion. (Ayes: Miller, Johnson, Havens, and Standley. Nays: None.)

**D. Rules and Procedures**

Chair Miller explained the Rules of Procedure followed by the Guilford County Board of Adjustment. Chair Miller informed Alexander Elkan, attorney for the appellant, that there were only four (4) Board members present. Chair Miller asked Mr. Elkan if he would like to move forward with the hearing with only four (4) members present. Mr. Elkan requested that the hearing be continued to the December 5, 2023 meeting. Staff was asked to summarize the staff report. Attorney Taniya Reaves, Deputy County Attorney, responded with reasons why a request to continue would not be appropriate (see attached transcript).

Mr. Standley moved to deny the request to continue the hearing, seconded by Mr. Johnson. The Board voted 4-0 in favor of the motion. (Ayes: Miller, Johnson, Havens, and Standley. Nays: None.)

**E. Old Business**

None

**F. New Business****Evidentiary Hearing Item(s)**

Swearing in of staff and those speaking on the case.

**Case #23-01-BOA-00003****5149 Randleman Road, Greensboro, NC 27406**

Alexander Elkan, Attorney, on behalf of Cardinal Metals, LLC, is appealing the Notice of Violation sent on December 20, 2022, in association with violation case 22-02-GVPU-00082. The property is located at 5149 Randleman Road, Greensboro, NC, 27406 on Guilford County Tax Parcel #144107 in Sumner Township. The violation cited operating a Recycling Facility, Outdoor (metal recycling business) in the Agricultural (AG) zoning district. A Recycling Facility, Outdoor is only permitted in Light Industrial (LI) and Heavy Industrial (HI) zoning districts per the Unified Development Ordinance (UDO) Section 4.3.1.

**10.03.A.1. Failure to Comply with Ordinance, Term, or Condition of Approval**

Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance; and

**10.03.B. Specific Violations**

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to, 1) Occupy, develop, or use any land or structure without first obtaining all appropriate permits or development approvals and complying with such terms and conditions.

[SEE ATTACHED TRANSCRIPT]

**G. Other Business**

**Approval of 2024 Proposed Meeting Calendar**

Mr. Johnson moved to approve the proposed 2024 Board of Adjustment meeting calendar as submitted, seconded by Mr. Standley. The Board voted 4-0 in favor of the motion. (Ayes: Miller, Johnson, Havens, and Standley. Nays: None.)

**H. Adjournment**

There being no further business before the Board, the meeting adjourned at 9:55 p.m.

*The next meeting of the Board of Adjustment is scheduled for November 7, 2023*

STATE OF NORTH CAROLINA

GUILFORD COUNTY

In the Matter of: )  
)  
) ORIGINAL  
Verbatim Minutes of the )  
Regular Meeting of the )  
Guilford County Board of )  
Adjustment )

---

**REGULAR MEETING OF THE  
GUILFORD COUNTY BOARD OF ADJUSTMENT  
HELD AT THE NC COOPERATIVE EXTENSION, AG CENTER  
3309 BURLINGTON ROAD  
GREENSBORO, NORTH CAROLINA  
OCTOBER 3, 2023**

---

Triad Reporting & Typing Services  
*Verbatim Court Reporters*  
4106 Hobbs Road  
Greensboro, NC 27410  
(336) 317-7492

Court Reporter: Judi Decker

**TABLE OF CONTENTS**

	PAGE
CERTIFICATE OF REPORTER	133

**BOARD OF ADJUSTMENT MEMBERS:**

Ditra Miller, Chair  
Willie Johnson, Commissioner  
Franklin Havens, Commissioner  
Larry Standley, Commissioner

**STAFF PRESENT:**

Leslie Bell, Planning Department Director  
Oliver Bass, Planning Department, Senior Planner  
Aaron Calloway, Planning Department, Planner I  
Kaye Graybeal, Deputy Director - Planning & Development  
Matthew Mason, Esq., Guilford County Attorney's Office

**OTHERS PRESENT**

Brooks Pierce Law Firm, by Alexander Elkan, Esq.  
Taniya Reaves, Esq., Guilford County Attorney's Office

**SPEAKERS IN FAVOR**

Taylor Callicutt  
Joseph Craig  
Marcus Martinsville  
Jonathan Nichols  
Albert Glasgow  
Brian Meeks

**SPEAKERS OPPOSED**

Thomas Ziegler  
Tony Welborn  
Annie Welborn  
Tameron Seagraves  
Susan Warren

**EXHIBITS:**

1. Posting Photos
2. Referenced Site Photos
3. Aerial Photo
4. Zoning Map
5. Appeal with Applicant's Exhibit 1
6. NC Secretary of State Business Registration
7. Guilford Metro 911 Communications
8. Case # 104-70 (Rezoning Approval Letter dated March 19, 1970)
9. UDO Section 4.3 (Use Matrix)
10. Deed of Ownership
11. May 18, 2023 Conditional Rezoning Sketch Plan
12. May 26, 2023 Conditional Rezoning Sketch Plan Mark-up

1 **THEREUPON**, the following proceedings were held:

2 MS. MILLER: Good evening, ladies and gentlemen, my  
3 name is Ditra Miller. I am the Chair of the Guilford County Board of  
4 Adjustment. It is now 6:00 p.m. Usually, we start on time, but we do have  
5 one (1) more Board member that we're waiting for, so if you could just  
6 indulge us for five (5) more minutes, and then we'll get started. Thank you.

7 (Thereupon, Mr. Campbell did not arrive for the meeting and  
8 the Chair proceeded with the meeting agenda)

9 MS. MILLER: Good evening, ladies and gentlemen. Thank  
10 you very much for attending the Guilford County Board of Adjustment  
11 meeting tonight, October 3, 2023. Will you please call the role for us?

12 (Thereupon, Mr. Calloway called the role and those in attendance  
13 were: Ms. Miller, Mr. Johnson, Mr. Havens and Mr. Standley)

14 MS. MILLER: Thank you very much. Are there any Agenda  
15 amendments tonight?

16 MR. BELL: No, Ma'am.

17 MS. MILLER: Thank you very much. All right. We will  
18 move on to the approval of the Board of Adjustment minutes for February  
19 7<sup>th</sup>, and July 11<sup>th</sup>, 2023. Has everyone had a chance to review?

20 ALL BOARD: (Affirmatively)

21 MS. MILLER: Do we have a motion to approve?

22 MR. JOHNSON: I make a motion to approve the minutes of  
23 February 7<sup>th</sup>, 2023 and the minutes of July 11<sup>th</sup>, 2023.

24 MR. STANDLEY: Second.

25 (Thereupon, Mr. Calloway conducted roll-call vote and all were in

1 agreement: Ms. Miller, Mr. Johnson, Mr. Havens and  
2 Mr. Standley)

3 MS. MILLER: The minutes have been approved. Thank you  
4 very much.

5 Again, welcome to the regular monthly meeting of the Guilford  
6 County Board of Adjustment. I'm Ditra Miller, the Chair of the Board at  
7 this meeting. This meeting is now called to order.

8 The Guilford County Board of Adjustment is appointed by the  
9 Guilford County Commissioners and operates under the North Carolina  
10 General Statute. It is a quasi-judicial Board, meaning that all testimony  
11 will be under Oath and the Board's decision will be based on the Findings  
12 of Fact, and the final action of the Board is similar to a Court decision.  
13 Appeals to the Board's decision are made to the Superior Court, not the  
14 Guilford County Commissioners. All cases will be heard as they appear on  
15 the Agenda. As each case is called, we will ask for any persons wishing to  
16 speak on the case, to come up to this microphone here (indicating), to be  
17 sworn in or affirmed.

18 The Board Secretary will give a brief description of the case and  
19 then the applicant and anyone wishing to speak in favor of the request will  
20 be heard. Any opponents to the request will then be given an opportunity  
21 to be heard. Both sides will be given the opportunity to speak in rebuttal.  
22 Any Board member may ask questions at any time. After testimony, the  
23 Board will discuss the request and make a decision to approve or deny, so  
24 you will know the results tonight. All Board members are required to vote



1 unless they have a conflict of interest. It takes four (4) affirmative votes to  
2 grant a variance and a simple majority for other cases.

3 As you can see at the moment, we only have four (4) Board  
4 members, so I would like to ask if the applicant would like to move  
5 forward with just the four (4) Board members here tonight?

6 (Thereupon, a speaker approached the Speaker's Table)

7 MS. MILLER: And if you would, please state your name.

8 MR. ELKAN: Yes, Ma'am, Alex Elkan, with Brooks Pierce  
9 Law Firm on behalf of Cardinal Metals, Inc. Do you need my address?

10 MS. MILLER: Yes, Sir.

11 MR. ELKAN: 230 N. Elm Street, Greensboro, North  
12 Carolina. We request a Continuance, to frankly ---

13 (Thereupon, several people in the audience stated that they could not  
14 hear Mr. Elkan speaking)

15 MR. ELKAN: Is that better?

16 (Audience responses – yes – (Affirmatively))

17 MR. ELKAN: We request a continuance. Ma'am, we would  
18 request a Continuance, frankly, to the December 5<sup>th</sup> scheduled Board of  
19 Adjustment Hearing in order to allow for Cardinal Metals to move forward  
20 with its Rezoning Application, which we anticipate will be heard by the  
21 Planning Board on November 8<sup>th</sup>.

22 Madam Chair, if you and the Board would like to hear, I'd be happy  
23 to provide additional basis for the request for Continuance. I did that very  
24 succinctly, because I thought you were considering how to move forward  
25 in light of the attendance, and so, I'm happy to give a more, full

1 explanation of why we want to request the Continuance. If you would like  
2 to hear that at this time.

3 MS. MILLER: We will have you elaborate further, however,  
4 I need to go ahead and continue the Rules and Procedures for tonight's  
5 meeting, and then after which, we'll move forward and let you elaborate.

6 So, thank you very much, ladies and gentlemen in the audience. I  
7 will continue sharing with you the Rules of the proceeding tonight. So,  
8 Board of Adjustment Appeal procedures. Appeals are the decisions of the  
9 Planning and Development Director, and they shall be heard by the Board  
10 of Adjustment unless there is a judicial challenge. Such an Appeal shall be  
11 made within thirty (30) days of the receipt of such aggrieved party. The  
12 written Notice of Decision from the Planning and Development Director,  
13 or in the case of an Office, Department or Board of the County, within  
14 thirty (30) days of filing the Written Notice. The filing of an Appeal shall  
15 stay all proceedings in furtherance of the contested action, unless the  
16 Planning and Development Director certifies that in his or her opinion, by  
17 reason of facts stated in the certification, such a stay would cause imminent  
18 peril to the life and property. Such relevant information as may be  
19 reasonably allowed, the Board of Adjustment will understand the basis for  
20 the applicant's Appeal. The Planning and Development Director shall  
21 similarly prepare a report detailing the regulations and interpretation  
22 behind the matter being appealed, and the reason for their decision. Upon  
23 receiving the application, the Board of Adjustment shall conduct an  
24 Evidentiary Hearing on the Appeal. The official who made the decision, or  
25 his or her successor, must appear as a witness. In addition, any party may

1 appear in person or be represented by an authorized Agent at the Hearing.  
2 After conducting the Evidentiary Hearing, the Board of Adjustment shall  
3 adopt an Order reversing or affirming, wholly or in part, or modifying the  
4 Order requirements, decision or determination in question. It shall take a  
5 majority vote of the Board of Adjustment to reverse or modify a contested  
6 action. The Board of Adjustment, in making its ruling, shall have all the  
7 powers of the Administrator from whom the Appeal is taken, and may  
8 issue or direct the issuance of a permit. The decision of the Board of  
9 Adjustment must be in writing and permanently filed in the minutes of the  
10 reviewing body as a public record. All Findings of Fact and conclusions of  
11 the Law must be separately stated in final decisions or Orders of the Board  
12 of Adjustment and must be delivered to parties of interest by Certified  
13 Mail.

14 All right. Now, we have received a request for a Continuance so at  
15 this time, everyone agrees that we should hear the extenuating  
16 circumstances, if you will. Please continue.

17 MR. ELKAN: Yes, thank you, Ma'am. Like I said, I  
18 represent Cardinal Metals, without going into the substance of the violation  
19 or the Appeal, which obviously is a disagreement between my client and  
20 the County, but I would like to lay out what we have been doing to address  
21 the violation and what we intend to do to address the alleged violation ---  
22 excuse me ---and so the alleged violation was issued December 20, 2022. It  
23 was timely appealed January 19<sup>th</sup>, 2023. Per the NOV in the Ordinance the  
24 Board of Adjustment shall hear the Appeal within a reasonable time, and  
25 per the NOV that was issued, the landowner had the opportunity to remedy

1 the alleged violation with a request to rezone the property. And we worked  
2 with staff and Counsel for the County to stay the hearing on this while we  
3 worked towards submitting a rezoning application. And I want to make  
4 sure folks understand that, as alleged by the staff, the issue is operation that  
5 is outside the boundaries of the HI zoned portion of a five (5) acre  
6 property. The HI portion of a five (5) acre property. The HI portion of the  
7 property is a one (1) acre portion, so regardless --- I just want to make sure  
8 folks understand --- regardless of the outcome of this Hearing, regardless  
9 of the outcome of the rezoning Hearing, my clients have every right to  
10 operate where they --- the land that they're operating on, and certainly  
11 even, according to staff we then go to the HI zoned portion of the property.  
12 So, what we've been doing in that time, we spoke with Counsel and with  
13 staff and agreed to put off hearing on the Notice of Violation while we  
14 pursue the rezoning that would essentially move the violation. There would  
15 be no reason to move forward and that's still where we are right now. We  
16 provided --- we immediately, in January, Mr. Baden ---- Mason, excuse  
17 me --- hired Westcott & Morris Association, we worked with them to try to  
18 determine a configuration for the rezoning that would satisfy the  
19 Ordinances, satisfy staff, and also not resolve in undue hardship on Mr.  
20 Baisden in reconfiguring his operations, because he had been led to believe  
21 and had invested that this operation was allowed on the property and has  
22 invested significant sums in operating as he has been, on the property. A  
23 sketch plan was submitted to County staff on May 18<sup>th</sup>, on May 26<sup>th</sup> staff  
24 provided us the written comments and a mark-up of the sketch, we  
25 scheduled a meeting that was held on June 8<sup>th</sup>, it was determined at that

1 meeting that the proposed plan did not meet staff requirements and that in  
2 order to meet staff requirements a survey was required. So, we employed  
3 Zack survey and immediately in June, there was difficulty in getting the  
4 survey fully completed, based on the availability of the surveyors, et  
5 cetera. The survey was completed around August 9<sup>th</sup>, by September 20<sup>th</sup>,  
6 we were able to submit a revised sketch plan to staff and we met on  
7 September 26<sup>th</sup>, we provided additional changes on September 29<sup>th</sup> and  
8 earlier today, Mr. Bass, I think, responded with what I think are some  
9 technical changes that he would like to see to the application. That is  
10 timely to the submitted ---- it will be timely submitted to be heard  
11 November 8<sup>th</sup> Planning Board meeting. We will have a meeting with the  
12 neighbor, some of whom are here, I believe. Prior to that, the intent is to ---  
13 as it was on the application, if appropriate, we will add conditions --- the  
14 attempt is to have a Conditional Zoning that, frankly, will be relatively  
15 satisfactory to all parties involved, including the County, the neighbors and  
16 the owner. And so, that rezoning attempt is intended to be a practical  
17 approach to the circumstances where we have a difference of view between  
18 Mr. Baisden of Cardinal Metals and the County staff. I think that what we  
19 have is acceptable to staff, I think the compliance with the Ordinance and it  
20 will be up to the Planning Board to determine whether that is appropriate  
21 pursuant to our application. And so, what we would like is additional time  
22 to move forward with that. If the Zoning Board approves of the  
23 rezoning --- excuse me --- if the Planning Board approves of the rezoning  
24 application, there will be no need to hear this matter. If they deny it, I think  
25 that the matter will be coming back here, at least that seems a reasonable

1 approach. We would suggest that at that point, we under 160.d-405, we  
2 would look for an alternative resolution to try to come up with a different  
3 plan, but what we've been trying to do this, very practically, and the  
4 owners have been trying not to spend their time and effort and money on  
5 lawyer's fees, fighting the violation, but rather, trying to bend over  
6 backwards to satisfy staff and pursue rezoning, which I think what the  
7 County would like for us to do, and it would also --- but that is a solution  
8 that would be relatively clean and clear and allow everybody to move  
9 forward, whereas, if we continue to contest violations and argue on pre-  
10 existing non-conforming uses, et cetera, et cetera, it --- there's a lot of  
11 money spent on proceedings and adversarial arguments, rather than try to  
12 solve the problem. And so, that's what we've been trying to do and we  
13 would like just a little bit more time to finish out that process, and  
14 hopefully, that will render a Violation Hearing unnecessary.

15 MS. MILLER: Thank you. Okay, what I would like to do  
16 before the Board members vote on the Continuance --- or make a motion, I  
17 should say, on the Continuance, I'm going to backtrack a little bit and have  
18 staff actually read the case, if you don't mind.

19 MR. ELKAN: Sure.

20 MS. MILLER: Thank you.

21 MS. REAVES: And Madam Chair, if I may, after the case  
22 summary given to the Board, I'd like an opportunity to be heard on that  
23 motion.

24 MS. MILLER: Certainly.

25 MR. CALLOWAY: Can everybody hear me okay?

1 (Audience responses - Affirmatively)

2 MR. CALLOWAY: Test – Test – Test. Good evening,  
3 everybody, Madam Chair and members of the Board. My name is Aaron  
4 Calloway. I’m the Planner with the Guilford County Planning Department  
5 and I’m going to be presenting this Appeal Case #23-01-BOA-00003. I’ll  
6 help the Counsel’s attorney on behalf of Cardinal Metals, LLC., whose  
7 principal office is located at 5149 Randleman Road, and whose managing  
8 member is Randal L. Baisden, husband of property owner Heather Baisden  
9 who is appealing the Notice of Violation (NOV) sent on December 20,  
10 2022,m in association with violation case 22-02-GCPL-00082. The  
11 property is located at 5149 Randleman Road, Greensboro, NC, 27406 on  
12 Guilford County tax parcel number 144107 in Sumner Township.

13 The subject property was initially approved for a partial rezoning of  
14 the Heavy Industrial (HI)in March of 1970 via reference cast 104-70. The  
15 area of the subject parcel included in the rezoning was delineated by metes  
16 and bounds, as found in Exhibits 8 and 4, respectively. The Guilford  
17 County Planning Department received no notification or complain that the  
18 previous owners of the property, John, Nada and Garland Medley, were in  
19 violation of operating industrial activities outside of the HI-zoned portion  
20 of the subject property during their tenure of ownership.

21 The current property owners, as noted above, acquired the parcel in  
22 January of 2022. The Guilford County Planning Department received  
23 complaints and subsequently sent an initial notification that our office had  
24 received a complaint on March 4, 2022, (see Exhibit 7 for a Guilford  
25 Metro 911 Communications Complaint Log). This was followed by the

1 first NOV April 4, 2022, which provided a deadline of May 4, 2022, for  
2 remediation. However, there were perceived issues in communication  
3 between parties.

4 In August of 2022, the Planning Department decided to re-evaluate  
5 the case, and assigned the administration of the case materials moving  
6 forward to Aaron Calloway, Planner I. A preliminary site visit was  
7 conducted, and photographs were taken on August 24, 2022 (see Exhibit  
8 2).

9 On October 11<sup>th</sup>, 2022, Aaron Calloway and Kaye Graybeal (Deputy  
10 Director of the Planning Department) coordinated a site visit with Mr.  
11 Baisden and used a GPS unit (Trimble, TDC 150 Module) to verify the  
12 approximate boundaries of the HI zoning via coordinates retrieved from  
13 the conversion of the metes and bounds included in the reference case 140-  
14 70. Site photographs were also taken during this visit (see Exhibit 2).

15 THE NOV subject to this appeal was sent by certified mail (tracking  
16 number 7020 3160 0000 5486 1256) on December 30, 2022.

17 The NOV cited violations of the following Guilford County  
18 Unified Development Ordinance (UDO) Sections.

19 4.3.1 Permitted Use Schedule (see Exhibit 9), this is the Use-Matrix  
20 which delineates the incongruity of heavy industrial uses in an AG-zoned  
21 district and, 10.03.A.1 Failure to Comply with Ordinance, Term, or  
22 Condition of Approval will state. any failure to comply with a requirement,  
23 prohibition, or limitation imposed by the provisions of this Ordinance, or  
24 the terms and conditions of any permit or other authorization granted  
25 pursuant to this Ordinance, shall constitute a violation of this Ordinance,



1 and 10.03.B. Specific Violations. It shall be a violation of this Ordinance  
2 to undertake any activity contrary to the provisions of this Ordinance,  
3 including but not limited to any of the following: 1. Occupy, develop, or  
4 use any land or structure without first obtaining all appropriate permits or  
5 development approvals and complying with such terms and conditions.  
6 The NOV noted that possible remedies of the violations are to confine the  
7 operation to only that portion currently Zoned HI, request to rezone the  
8 entire property HI, or cease operations. The appeal was received January  
9 19, 2023 (see Exhibit 5). Staff had originally intended for the appeal case  
10 to be heard by the BOA during the regular meeting for March 2023. The  
11 issue was raised by the attorney representing the property owner,  
12 Mr. Alexander Elkan, that the enforcement of the violation case, and  
13 therefore the Appeal, be stayed until the resolution of a rezoning  
14 application.

15 On May 18<sup>th</sup>, 2023, staff reached out to the attorney, Mr. Elkan, on  
16 the status of the proposed rezoning application. That day, staff received a  
17 conceptual sketch plan for the possible conditional rezoning (see Exhibit  
18 #12). May 26, 2023, Oliver Bass, the Senior Planner assigned to handle the  
19 potential conditional rezoning, sent Mr. Elkan a mark-up of the sketch plan  
20 (see Exhibit #13). On June 5, 2023, staff coordinated a virtual meeting  
21 with Mr. Elkan and other members of their team on the specifics for  
22 revising the sketch plan and other requirements for the potential  
23 conditional rezoning application scheduled for June 8, 2023, at 4:30 p.m.  
24 Guilford County Attorney, Andrea Leslie-Fite, and Aaron Calloway,  
25 myself, also attended the virtual meeting. On July 12, 2023, staff requested

1 an update on the sketch plan revision and application. Mr. Elkan replied on  
2 July 19, 2023, stating that their team was still working on the revisions. On  
3 August 28, 2023, staff reached out again for a status update, to which Mr.  
4 Elkan responded on September 5, 2023, that they had completed the survey  
5 work and were preparing the revision for staff review. And as Mr. Elkan  
6 has updated, they have submitted an application and Mr. Bass has been  
7 handling that project.

8 (Thereupon, a Zoning Map was displayed for everyone's review)

9 MR. CALLOWAY: B. District Descriptions, Agricultural  
10 (AG). This AG district is intended to provide locations for agricultural  
11 operations, farm residences, and far tenant housing on large tracts of land.  
12 This district is further intended to reduce conflicts between residential and  
13 agricultural uses and preserve the viability of agricultural operations. The  
14 purple portion of the property in the lower, left-hand corner that is HI and  
15 this district description states, "A farm".

16 Heavy Industrial (HI), This HI district is intended to accommodate a  
17 broad range of heavy industrial uses including manufacturing, wholesaling,  
18 fabrication, resource extraction and specialized industrial operations that  
19 may create adverse impacts on incompatible uses including residential or  
20 sensitive habitats. So, this is an aerial view of the subject property and  
21 surrounding areas and as we can see, the subject parcel has few uses. On  
22 the upper, left-hand area, you can see people who appear to be gardening.  
23 The rest of the parcel is used for this metal recycling facility. The  
24 remainder of this surrounding area on the north, east, south is Single-  
25 family Residential. Across the street in between Old Randleman and

1 Randleman Road has a gas station and to the south-west we have a  
2 restaurant.

3 D. Environmental Impacts: First, this area is outside the limits of  
4 any municipality's public water supply system. Therefore, any type of  
5 release in these areas can pose a threat to potable sources of groundwater  
6 utilized for residential consumption. This goes for any  
7 industrial/commercial facility operating in the County.

8 The second area of potential environmental impact is land usage and  
9 proximity to water of the State of North Carolina, surficial spills and  
10 releases can quickly be transported to nearby surface waters impacting  
11 water quality. There is a mapped stream on the eastern side of the property  
12 that could be impacted by activity on site depending on compliance with  
13 all regulations. In addition, this stream is protected by the State Water  
14 Supply Watershed setback requirements and local stream buffer  
15 regulations, these regulations would require a 30 -foot protected area on  
16 either side of the stream for low density projects, or 100 feet of protected  
17 area on either side of the stream for high density projects, proper review  
18 process would determine the required width of the buffer area.

19 In addition, depending on the location of the surface water and the  
20 type and quantity of contaminant spilled, there can be a downstream  
21 impact to municipal water supplied (i.e. reservoirs), this property is located  
22 in the Polecat Creek W-S-III Water supply Watershed. Only about 20% of  
23 North Carolina's land is classified as being in a Water Supply Watershed,  
24 and the W-S-III classification is reserved for water sources that are used a  
25 water supply for drinking, culinary, or food processing purposes in low to

1 moderately developed watersheds. Therefore, spills to pervious surfaces,  
2 (i.e., gravel, soil, grass) can be transported and absorbed to underlying  
3 soils which can act as a secondary source, leaching contaminants to  
4 groundwater over long periods of time.

5 Staff received this appeal on January 19th, 2023, we posted signs on  
6 September 14<sup>th</sup>, 2023, we sent out notices on September 19<sup>th</sup>, 2023 and we  
7 published our ad on-line on September 22<sup>nd</sup>, 2023. And that will conclude  
8 our report.

9 MR. MASON: Madam Chair, if I might, I'd like to caution  
10 the Board that at this point, Mr. Calloway, I don't believe has been sworn  
11 yet, so what he shared with the Board is proper for consideration on the  
12 motion to Continue that's in front of you, but if the Board chooses to go  
13 forward with the Hearing on the merits, not for that purpose, at least at this  
14 time.

15 MS. MILLER: Thank you. Thank you very much, Mr.  
16 Calloway. We appreciate that. All right, do we have a motion to Continue?

17 MS. REAVES: Ma'am, I would ask, Madam Chair, that the  
18 Board----

19 MS. MILLER: I apologize, you did ask earlier. Please, go  
20 ahead.

21 MS. REAVES: Would you like for me to go over here  
22 (indicating), Madam Chair?

23 MS. MILLER: Yes, please, and use this microphone, if you  
24 like.

25 MS. REAVES: I can use this one.

1 MS. MILLER: Okay, okay. And if you will test to make  
2 sure everyone can hear you.

3 MS. REAVES: Can everyone hear me?

4 MS. MILLER: You may need to take it out of the holder.

5 MS. REAVES: What about now? (Louder)

6 MS. MILLER: Very good.

7 MS. REAVES: Okay, I'll try not to yell into this thing.

8 Madam Chair, distinguished Board members, thanks so much for  
9 allowing me to respond to the motion to Continue that was proposed by  
10 opposing Counsel, Mr. Alexander Elkan on behalf of Cardinal Metals. Let  
11 me start off by saying that this Board just heard a time-line. That time-line  
12 is public information, since we are aware that Mr. Calloway was not sworn  
13 in, but that time-line is public information. And I want the Board to really  
14 think about that for a second. The NOV was issued on 12/20/2022, but the  
15 first complaint coming in, in January of 2022. In between that time, the  
16 County was sending out Notices and working with Cardinal Metals, of  
17 course, to no avail as far as cleaning up the site. I will say that they did  
18 cooperate in letting our folks come in and identify the boundaries to  
19 confirm that they were operating, in the County's opinion, off of the HI  
20 designated land barrier. So, the County doesn't issue NOV's when persons  
21 or businesses are operating within the confines of those designated areas,  
22 and that designated land use. They are issued when we confirm that the  
23 operation has crossed over those lines. So, Mr. Elkan indicated that there  
24 was some oral representations prior to the purchase of the property. Well,  
25 oral representations, at this point, are hearsay and they don't trump the

1 written Law, which is our County Ordinances, and they can't be a basis for  
2 a Continuance. Even though the Appeal does stay enforcement of that  
3 Notice of Violation (NOV), it does not stop that use, that violation, from  
4 continuing over these impervious areas, like Mr. Calloway said, and to the  
5 soil and to the gravel and into that water supply, that drinking water, that  
6 culinary water, in low to moderate development areas.

7 As far as the Conditional Use, I want to circle back, again, to the  
8 oral representation, prior to the purchase of this property. There is a duty  
9 on all land buyers, when they buy land, to confirm their boundaries. Most  
10 of the time, when you purchase a property, you've got to get a surveyor out  
11 there and survey those property lines. That would have been the time to  
12 confirm the HI boundaries, to make sure that they are operating. They also  
13 have a duty to operate within those confines. That is not the County's  
14 responsibility, that is the purchaser's responsibility, and it cannot be  
15 shifted by some random oral representation, by hearsay. So, at this time,  
16 we're going to ask that the Board move forward with the Notice of  
17 Violation Hearing, and in the event that the Board does not grant it --- I  
18 mean, does grant the Continuance, we would ask that it be a short  
19 continuance, and not go past the December 5<sup>th</sup> date.

20 COURT REPORTER: Would you state your name for the  
21 record, please?

22 MS. REAVES: Yes, Ma'am, Taniya Reaves, Deputy County  
23 Attorney working with the Guilford County Attorney's Office,  
24 representing the Guilford County Planning Department. Thank you.

1 COURT REPORTER: Thank you. Can you please give your  
2 address for the record.

3 MS. MILLER: Oh, yes, I sure can. The County Attorney's  
4 Office is located at 301 West Market Street in Greensboro, North Carolina,  
5 27401.

6 MR. ELKAN: Madam Chair, may I have an opportunity to  
7 respond?

8 MS. MILLER: Of course.

9 MR. ELKAN: Just very briefly, and I think we might be  
10 getting into the substance of the alleged violation a little bit, and I --- it was  
11 not my intent --- and I'm sorry. I'm trying to avoid getting into the  
12 substance of the alleged violation, but I will say that while I appreciate the  
13 concerns regarding environmental and things, there has been no evidence  
14 of environmental impacts, nor, I would submit to you, will there be.  
15 However, all we're asking for ---- what has gone on, has occurred, what  
16 we're asking for at this point is less than two (2) additional months of a  
17 stay of the Violation proceeding to give us an opportunity to go get the  
18 rezoning, which should be slated for the November 8<sup>th</sup> Hearing before the  
19 Planning Board. Through that rezoning, I ---- my view is that the County  
20 gets more than they would get if what is required for compliance of the  
21 alleged violation, is for the owners to reconfigure their property. There are  
22 certain portions of the property that I would assert that are certainly  
23 existing on Conforming Uses, that would be allowed to continue, however,  
24 pursuant to the rezoning, what we will be doing is complying with all  
25 existing requirements that are applicable to the property. To my view, that

1 is a benefit to the County, as well as to the landowner. And that's the only  
2 way that that can be accomplished. That's why we're trying to head in that  
3 direction so that Mr. Baisden and his company and his employees, et  
4 cetera, et cetera, can peacefully move forward and operate on the property  
5 in compliance with all current requirements. That's why we're headed in  
6 that direction and we're just asking for two (2) months to let us try to get  
7 there.

8 MS. MILLER: Thank you.

9 MR. BELL: Madam Chair, may I  
10 say something?

11 MS. MILLER: Yes.

12 MR. BELL: There's a potential --- and it  
13 is a potential, that this --- if this Continuance is  
14 granted by the Board, that this could turn into  
15 longer than a two (2)-month period. If the  
16 Board --- if the Planning Board happens to deny  
17 the request, or it's only a simple majority, then  
18 it's subject to the Board of Commissioners and  
19 then scheduling it on their schedule. And they  
20 have the authority and discretion of scheduling  
21 that, as appropriate for their office. So, I just  
22 wanted you-all to know that. That it may be two  
23 (1) months or it could be longer.

24 MS. MILLER: Thank you for that.

25 MR. STANDLEY: I mean, it's contingent



1 on our time. We only have four (4) members  
2 present tonight.

3 MR. JOHNSON: It's up to the Planning  
4 Board and it's up to the County Commissioners.  
5 We're not at a decision-making point, but, you  
6 know, it's kind of out of control for us.

7 MR. STANDLEY: At this rate, we'll be  
8 here next year at this time. It could go on forever.

9 (Thereupon, there was a quiet discussion among the Board  
10 members out of hearing of the microphone)

11 MS. MILLER: Okay, we have been  
12 requested to continue this case, so I would ask  
13 the Board, is there a motion to continue or deny?

14 MR. STANDLEY: I make a motion to  
15 deny.

16 MR. JOHNSON: Second.

17 MS. MILLER: Okay, a motion has been  
18 put on the floor to deny the continuance and it  
19 has been seconded.

20 (Thereupon, Mr. Calloway took a roll-call vote and all members  
21 voted unanimously in favor of denying the request to continue)

22 MS. MILLER: The Continuance has been denied. We will  
23 continue with the case this evening.

24 MR. ELKAN: Madam Chair, if I could

1 just have a clarification. At the opening of the  
2 meeting, you indicated that with four (4) Board  
3 members present, you asked if the Appellant had  
4 objections to proceeding on that basis.

5 MS. MILLER: I received clarification that  
6 because this was not a Variance, but an Appeal,  
7 that that particular procedure was not applicable.  
8 I apologize.

9 MR. ELKAN: Thank you for that  
10 clarification.

11 MS. MILLER: And now that we are  
12 moving forward, I would like to swear in staff.

13 MR. BELL: Can we backtrack on Aaron?

14 MS. MILLER: Yes, okay, first we will  
15 backtrack on Aaron, who is so kind to read staff  
16 notes for us tonight.

17 MR. EKLAN: Madam Chair, if I might?

18 MS. MILLER: Yes. It will be part of the  
19 record.

20 MR. JOHNSON: Yeah.

21 MS. MILLER: Let's swear you in.

22 (Thereupon, Mr. Calloway was sworn in)

23 MS. MILLER: Do you swear or affirm to  
24 tell the truth, the whole truth and nothing but the  
25 truth, and that which you previously stated was

1 the truth, the whole truth and nothing but the  
2 truth?

3 MR. CALLOWAY: Yes, Madam  
4 Chairman.

5 MS. MILLER: Thank you very much.

6 MR. ELKAN: Madam Chair, if I may, I  
7 would object to the Board considering the report  
8 from staff as it lacks foundation and should not  
9 be considered without appropriate testimony.  
10 And I would make any additional objections at  
11 the appropriate time. Would you like for me to  
12 remain here at the table in front of the Board? Or  
13 how would you like me to proceed in that regard?

14 MS. MILLER: You may, and we will  
15 proceed and I will ask you, Sir, do you swear or  
16 affirm to tell the truth, the whole truth and  
17 nothing but the truth?

18 MR. ELKAN: Yes, Ma'am.

19 MS. MILLER: Thank you. You may  
20 proceed.

21 MR. ELKAN: If I might, the Board, given  
22 the procedural posture of the County first.

23 MS. REAVES: Madam Chair, at this time  
24 the County would like to call Aaron Calloway,  
25 we can have him affirmed to his testimony.

1 MS. MILLER: Okay, I think since you are  
2 speaking, as well, we need to go ahead and swear  
3 you in.

4 MS. REAVES: Madam Chairman,  
5 generally the attorneys are not witnesses ---

6 MR. JOHNSON: Procedure.

7 MS. REAVES: ---- and sworn in for their  
8 testimony. The attorneys represent and kind of  
9 assist during the proceedings.

10 MS. MILLER: Ladies and gentlemen of the gallery, this case  
11 is very much different from the ones that we generally have and we usually  
12 don't have all these smiling faces in the gallery, so please forgive me for  
13 mis-stepping a few times tonight, but we will get through this. Thank you.

14 MS. REAVES: Thank you, you're fine,  
15 Madam Chair. Madam Chair, if we could have  
16 Aaron Calloway affirmed.

17 MS. MILLER: Do you swear or affirm  
18 that the testimony you give will be the truth, the  
19 whole truth and nothing but the truth.

20 MR. CALLOWAY: Yes, Ma'am.

21 MS. REAVES: Madam Chair, as  
22 a matter of housekeeping, for our proposed  
23 Exhibits, may I approach the Board?

24 MS. MILLER: Yes.

25 (Thereupon, Ms. Reaves approached the Board and presented

1 several Exhibits for their review)

2 MS. REAVES: Mr. Mason, do  
3 you have a copy of these Exhibits and would you  
4 like a copy?

5 MR. MASON: I have them, thank you.

6 MS. REAVES: Mr. Bell, would you like  
7 a copy?

8 MR. BELL: I have them.

9 MS. REAVES: Ms. Graybeal, do you  
10 have a copy or do you need a copy?

11 MS. GRAYBEAL: I have them.

12

13 **DIRECT EXAMINATION**

14 MS. REAVES: Mr. Calloway, could you please state your  
15 name for the record?

16 MR. CALLOWAY: My names is Aaron Tre' Calloway.

17 MS. REAVES: And can you tell the Board where you work  
18 and what your position is there?

19 MR. CALLOWAY: I am a Planner I with the Guilford  
20 County Planning Department.

21 MS. REAVES: And how long have you been with the County  
22 in that position?

23 MR. CALLOWAY: Since March 2022.

24 MS. REAVES: And are you familiar with the Appellant in  
25 this matter, Cardinal Metals, LLC.?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And you're also familiar with the property  
3 that is also under Appeal located at 5149 Randleman Road?

4 MR. CALLOWAY: Yea, Ma'am.

5 MS. REAVES: And how do you know Appellant and the  
6 conditions of this property?

7 MR. CALLOWAY: I was assigned the Violation case on  
8 Cardinal Metals in the fall of 2022.

9 MS. REAVES: Okay. And when you were assigned this case,  
10 was that initiated from a report or complaint?

11 MR. CALLOWAY: Our office received initial complaints in  
12 the Spring, March 2022. At that time, the Zoning Enforcement Officer was  
13 Ms. Anita Hayes, and after she left our Department, this case was assigned  
14 to me.

15 MS. REAVES: Okay, when I say "you" --- let me clarify, I  
16 mean the Department. And so let me just lay this foundation. Is the  
17 information that you're giving this Board today, information that was  
18 collected in the normal course of business for the Planning Department?

19 MR. CALLOWAY: Yes, Ma'am.

20 MS. REAVES: And did you either gather the information  
21 yourself, or review it in preparation for today's Hearing?

22 MR. CALLOWAY: Yes, Ma'am. I gathered it.

23 MS. REAVES: Okay, and the information that you  
24 reviewed, that was part of the file, did you review that in preparation for  
25 today's Hearing?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And did you review and gather information  
3 regarding your investigation?

4 MR. CALLOWAY: Yes, Ma'am.

5 MS. REAVES: Thank you so much for that. So, can you  
6 please tell the Board the cause initiating the report?

7 MR. CALLOWAY: The initial reports to us were that there  
8 was operation of a Heavy Industrial use in the AG zoning district, and our  
9 investigation unfurled on that basis.

10 MS. REAVES: Okay, can you please share with the Board  
11 your investigative efforts in this matter prior to issuing a Notice of  
12 Violation?

13 MR. CALLOWAY: Yes, Ma'am. So, the current zoning on  
14 the property was established in 1970, and I was able to pull the decision  
15 letter for that case, which had the metes and bounds for that zoning district,  
16 because it was only a portion of the property and it is standard practice  
17 whenever re zoning only rezones a portion of the property to delineate that  
18 portion, via metes and bounds. When I retrieved the metes and bounds, we  
19 found the coordinates by use of an application called, "Cogo", where you  
20 feed it metes and bounds and you get usable coordinates. Afterward, I was  
21 supplied a GPS unit, myself and Ms. Graybeal coordinated the visit on the  
22 site and we used that GPS unit to find those coordinates, based off of the  
23 decision letter of metes and bounds of the initial zoning case.

24 MS. REAVES: Okay. And Oliver,

1 who is working the controls there, if you could  
2 turn to page 75, which is going to be Exhibit 8 ---  
3 I'm sorry, page 74, and that should be a Bates  
4 Page number ---- everyone that is following  
5 along in your Exhibit packages that you were  
6 provided, at the bottom of each page, is a three  
7 (3)-digit number, starting with "001", that will go  
8 all the way through "099". And it may be a PDF  
9 page, so if you go to the top of that PDF, it  
10 should let you type in page 75 --- it should be  
11 PDF page 75, but it will be --- because there's a  
12 cover sheet that's not numbered --- it will be  
13 Bates page number 74.

14 It should be a place to type in the page  
15 number, and type in "75", and hit "Enter". There  
16 you go.

17 MS. REAVES: Madam Chair and Board,  
18 this is the County's proposed Exhibit #8, we're  
19 kind of going out of turn based on the testimony.

20 MS. REAVES: So, if you will scroll down  
21 to that letter.

22 MS. REAVES: Mr. Calloway, can you  
23 tell --- you can stop there. Thank you so much.

24 MS. REAVES: Mr. Calloway, can you tell the Board what  
25 this document is?



1 MR. CALLOWAY: Yes, Ma'am. This is the decision letter  
2 from that initial zoning case, which delineated the portion of the subject  
3 property that was rezoned HI, in 1970.

4 MS. REAVES: Okay, was this Exhibit collected in the  
5 normal ---- excuse me --- kept in the normal course of business with the  
6 Planning Department?

7 MR. CALLOWAY: Yes, Ma'am.

8 MS. REAVES: And did you review it in preparation for  
9 today's Hearing?

10 MR. CALLOWAY: Yes, Ma'am.

11 MS. REAVES: Board, if there are no  
12 objections, I ask that this County's proposed  
13 Exhibit 8, be admitted into evidence for the  
14 purpose of today's Hearing.

15 MR. ELKAN: Objection, lack of  
16 foundation. And how is this being recorded? And  
17 can you hear my objections?

18 COURT REPORTER: Yes, Sir.

19 MR. ELKAN: Or do I need a  
20 microphone?

21 COURT REPORTER: No, Sir.

22 MR. BELL: We have a recorder  
23 there (indicating).

24 MR. MASON: This recorder,  
25 right here (indicating).

1 MR. ELKAN: All right.

2 MS. REAVES: Board, we have laid the foundation, it is a  
3 business document. Mr. Calloway has testified that it is kept in the normal  
4 course of business in the Planning File and it is a 1970 document. So, he  
5 reviewed it in preparation for today's Hearing. It is kept in the normal  
6 course of business and if he's going to object on that basis, I ask that it be  
7 admitted as an agent's document and as a public document.

8 MR. JOHNSON: I think I would allow it.

9 MR. STANDLEY: Yes.

10 MS. MILLER: We would accept it into  
11 Evidence.

12 MS. REAVES: Thank you so much,  
13 Madam Chair.

14 Mr. Calloway, this Exhibit #8, remind the Board what this document  
15 is and what information it contains.

16 MR. CALLOWAY: Yes, Ma'am. This document is a  
17 decision letter. It is standard procedure for us, as Planners, to send these  
18 decision letters to the property owners of the property subject to a  
19 rezoning, after an Appeal period following the approval or denial of the  
20 rezoning. In this case, the rezoning of that portion of the subject property  
21 was approved and so this letter details that it was approved. Also, it  
22 delineates the boundaries of the HI zoned district.

23 MS. REAVES: And are these the boundaries that you used to  
24 establish the outline, the HI, when you went out?

25 MR. CALLOWAY: Yes, Ma'am.

1 MS. REAVES: Thank you for that.

2 MR. ELKAN: I object to Mr.

3 Calloway's testimony based on what was  
4 standard practice in 1970 and what the document  
5 shows in 1970.

6 MS. REAVES: And my response is that  
7 the document speaks for itself. It says it was filed  
8 at a Public Hearing and says that it was for a  
9 rezoning Ordinance, right here in the bottom, and  
10 it gives the metes and the bounds.

11 MR. STANDLEY: We hear the objection.

12 MS. MILLER: The document will be  
13 accepted.

14 MS. REAVES: Thank you, Madam  
15 Chair.

16 MS. REAVES: So, you were going on your investigative  
17 efforts and you were establishing that you used the metes and bounds in  
18 this 1970 letter. Is there anything else that you would like to tell the Board  
19 about your investigative efforts?

20 MR. CALLOWAY: No.

21 MS. REAVES: Okay, can you tell the Board when you issued  
22 the Notice of Violation and the basis for that violation?

23 MR. CALLOWAY: The NOV was mailed December 20<sup>th</sup>,  
24 2023 {SIC} and the basis of the violation had three (3) components,  
25 essentially. The primary component was citing the Use Matrix, which is

1 Section 4.3.1 of the Unified Development Ordinance. That is the portion of  
2 the Ordinance which tells us, the Planners or the Administrators of the  
3 Development Ordinance, what uses are permitted in what zoning district.

4 MS. REAVES: Is that the table that you referenced earlier?

5 MR. CALLOWAY: Yes, we reference it in our report to the  
6 Board.

7 MS. REAVES: Okay, thank you for that.

8 MS. REAVES: Oliver, if you  
9 could turn to Exhibit #9, that should be on your  
10 PDF page "77". Okay, and if you scroll down  
11 one (1).

12 MS. REAVES: Mr. Calloway, can you tell the Board what  
13 this Exhibit #9 is?

14 MR. CALLOWAY: Yes, so this front page, this is  
15 essentially, the preface matter for the Zoning Use Matrix and this is giving  
16 us a lead-in to the Use Matrix, giving us some definitions of some terms  
17 and if Mr. Bass can scroll down, we also get introduced into Use  
18 Categories, which gets us some direction if there is any interpretation  
19 required. And this section that Mr. Bass is showing now, it's .6 and is  
20 highlighted and that is describing the process in which we encounter  
21 Unlisted Uses in the Use Matrix.

22 MS. REAVES: And is the Use Matrix at the beginning of this  
23 blue area at the bottom of the page?

24 MR. CALLOWAY: Yes, Ma'am.

25 MS. REAVES: And does that continue over to PDF page

1 90? --- 91? Use PDF page 91?

2 MS. REAVES: Go back up one (1).

3 MS. REAVES: Is this all a part of that Matrix Table?

4 MR. CALLOWAY: Yes, this page, in particular, is the  
5 capsum to the Use Matrix, because this page is regarding the Rock Creek  
6 Consent Area. The regular Matrix ends on the page above that.

7 MS. REAVES: Will you go up a page  
8 above that, Mr. Bass?

9 MS. REAVES: Is this the end of the Matrix Use Tables?

10 MR. CALLOWAY: Yes, Ma'am.

11 MS. REAVES: And is this part of the Guilford County  
12 Ordinance?

13 MR. CALLOWAY: Yes, Ma'am.

14 MS. REAVES: At this time, Honorable  
15 Board, we ask that Exhibit #9 be admitted into  
16 Evidence under Judicial Notice, if there are no  
17 objections.

18 MR. EKLAN: No objections.

19 MR. JOHNSON: We accept it into  
20 Evidence.

21 MS. MILLER: We will accept it into  
22 Evidence.

23 MS. REAVES: Thank you so much,  
24 Madam Chair.

1 MS. REAVES: So, you were telling the Board about 4.3.1,  
2 about the violations. Can you tell us what part of the Use Matrix let you to  
3 the violation identified?

4 MR. CALLOWAY: Yes, Ma'am. So, the particular character  
5 of the business was most similar to a Recycling Facility or a Junk Salvage  
6 Yard. And so, those uses, which this is most similar to fall narrowly within  
7 the Industrial zoning districts as indicated by the "Ps" in the far --- that are  
8 highlighted in the far-right column. The "P" means is a use by right, and  
9 anywhere we don't see a letter, indicates to us that it is not allowed in the  
10 zoning district, whatsoever.

11 MS. REAVES: So, according to the Use Matrix, Recycling  
12 Facilities, outdoors, are not permitted on Agricultural designations, is that  
13 correct?

14 MR. CALLOWAY: Yes, Ma'am.

15 MR. ELKAN: Objection.

16 MS. REAVES: Okay.

17 MS. REAVES: And Oliver will you scroll  
18 down to the bottom of the page above that?

19 MS. REAVES: Under Waste Related Uses in that Matrix, it's  
20 not highlighted, but is there a section for Junk Salvage Yard?

21 MR. CALLOWAY: Yes, Ma'am,

22 MS. REAVES: And where is the only designation you can  
23 run a Junk or a Salvage Yard?

24 MR. CALLOWAY: Heavy Industrial zoning districts,  
25 Ma'am.

1 MS. REAVES: Is there any such permitted use in  
2 Agricultural zone?

3 MR. CALLOWAY: No, Ma'am.

4 MS. REAVES: Okay. So, was this part of the basis for  
5 issuing the Notice of Violation?

6 MR. CALLOWAY: Yes, Ma'am.

7 MS. REAVES: And under what other part of the Ordinance  
8 did you issue a Notice of Violation?

9 MR. CALLOWAY: Section 10.03.811 Failure to Comply  
10 with Ordinance, Term or Conditions of approval.

11 MS. REAVES: Oliver, if you could  
12 please go to PDF page 17. That would be it right  
13 there (indicating).

14 MS. REAVES: Mr. Calloway, this was part of --- well,  
15 actually, we're going to have to go back.

16 MS. REAVES: If you could go to PEF  
17 page 14 ---- I apologize --- it'll be listed as  
18 Exhibit #5. Thank you so much. And if you'll  
19 just scroll down one (1) ---

20 MS. REAVES: Mr. Calloway, can you tell me what this  
21 proposed Exhibit #5 is?

22 MR. CALLOWAY: This is the letter that we received to  
23 Appeal the Notice of Violation.

24 MS. REAVES: And who did you receive it from?

25 MR. CALLOWAY: Mr. Elkan.

1 MS. REAVES: And who is Mr. Elkan?

2 MR. CALLOWAY: Mr. Elkan is the attorney of the property  
3 owner.

4 MS. REAVES: So, this is the Appeal submitted by Counsel  
5 on behalf of Cardinal Metal, is that correct?

6 MR. CALLOWAY: Yes, Ma'am.

7 MS. REAVES: And Oliver, if you  
8 would, scroll down to page 17. You can just  
9 scroll down. Keep going. And one more.

10 MS. REAVES: And was your Notice of Violation attached to  
11 the Appellant's Appeal letter?

12 MR. CALLOWAY: Yes, Ma'am.

13 MS. REAVES: As Exhibit #1?

14 MR. CALLOWAY: Yes, Ma'am.

15 MS. REAVES: Is this a true and accurate copy of your  
16 Notice of Violation as attached.

17 MR. CALLOWAY: Yes, Ma'am.

18 MS. REAVES: Okay. And did you review it in preparation  
19 for today's Hearing?

20 MR. CALLOWAY: Yes, Ma'am.

21 MS. REAVES: All right. If there are no  
22 objections, I ask that Exhibit #5 be admitted into  
23 evidence. Are there any objections?

24 MR. ELKAN: No objection.

25 MS. MILLER: Accepted.



1 MS. REAVES: Thank you, Madam Chair.

2 MR. JOHNSON: "Accepted" is what she  
3 said.

4 MS. REAVES: Thank you so much,  
5 Madam Chair.

6 MS. REAVES: Now, let's go to your Notice of Violation,  
7 Mr. Calloway. In your Notice of Violation, is that where you are citing  
8 Sections 10.03?

9 MR. CALLOWAY: Yes, Ma'am.

10 MS. REAVES: Okay, and so you gave us the violations for  
11 4.3.1 Tell us one (1) more time what the violations would be --- official  
12 violations are.

13 MR. CALLOWAY: Section 10.03.8.1, "Any failure to  
14 comply with a requirement or condition or limitation imposed by the  
15 provisions of this Ordinance, or terms and conditions obtained from or  
16 other Authorization granted pursuant to this Ordinance, shall constitute a  
17 violation of this Ordinance."

18 MS. REAVES: Okay, what was the additional Section?

19 MR. CALLOWAY: Section 10.03.B.1, "Occupy and develop  
20 or use any land or structure without first obtaining all appropriate permits  
21 or development approvals in complying with such transient conditions."

22 MS. REAVES: And at the time you issued this Notice of  
23 Violation, listed pursuant to 10.03.8.1, did the Appellant have  
24 authorization to exceed the limitations imposed by the Ordinance.?

25 MR. CALLOWAY: No, Ma'am.

1 MS. REAVES: And at the time of the Notice of Violation,  
2 under Section 10.03.B.1, did the appellant occupy or use any land or  
3 structure without obtaining all the appropriate permits?

4 MR. CALLOWAY: Yes, Ma'am.

5 MS. REAVES: And how did they violate that?

6 MR. CALLOWAY: So, the first step is that in order to  
7 occupy the land to the extent to which they would have --- they have  
8 now --- the property would need to be zoned HI, at a minimum, to allow it.  
9 And then on top of that, because of the improvements on the property they  
10 would require a site plan approval and then building permits.

11 MS. REAVES: Okay, and you do not have those applications  
12 for permits or site plans of record?

13 MR. CALLOWAY: No, Ma'am.

14 MS. REAVES: At the time of the Notice of Violation in your  
15 file? Let me be clear --- clarify---

16 MR. CALLOWAY: That is correct, Ma'am.

17 MS. REAVES: Okay. Is there --- if we  
18 could go back, Mr. Bass, to the first page of  
19 Exhibit #5, which is going to be your PDF page  
20 15. Go back two (2) more pages, two (2) more  
21 slides.

22 MS. REAVES: On this Notice of Appeal that was provided  
23 to the Department, did you read the three (3) grounds for Appeal that were  
24 presented in this letter by Appellant?

25 MR. CALLOWAY: Yes, Ma'am.

1 MS. REAVES: Can you just tell us what the first --- the first  
2 basis is there?

3 MR. CALLOWAY: Would you like me to read the  
4 entire statement?

5 MS. REAVES: No, you can just read the main caption, right  
6 there, I think the rest speaks for itself and everybody --- the Board has a  
7 copy.

8 MR. CALLOWAY: Yes, Ma'am. "1) Floating Zoning:  
9 Representations and reliance, thereon"

10 MS. REAVES: What was your understanding of that defense,  
11 that was presented --- or the basis for the Appeal, for that #1?

12 MR. CALLOWAY: It is a foreign concept to me. I am not  
13 familiar with this term, "floating zoning".

14 MS. REAVES: But as part of that basis, what is the  
15 representation here, alleged, by Cardinal Metals?

16 MR. CALLOWAY: The alleged representation is that  
17 someone in staff had informed the property owner, prior to purchasing the  
18 property, that there was a "floating zoning" on the property, to my  
19 understanding.

20 MS. REAVES: Okay. Does it name who that person is?

21 MR. CALLOWAY: It refers to "staff".

22 MS. REAVES: Does it give a particular name? That was my  
23 question. Does it give a staff name?

24 MR. CALLOWAY: I apologize. I'm not seeing one at the  
25 moment.

1 MS. REAVES: Okay. We'll take that answer. And when did  
2 you say this property was purchased.

3 MR. CALLOWAY: Early in 2022.

4 MS. REAVES: So, do you know of anything in Guilford  
5 County that allows "floating zoning"?

6 MR. CALLOWAY: I've --- before this Appeal, I have never  
7 heard of that concept. It is foreign to me.

8 MS. REAVES: Okay. Do you know whether or not that's the  
9 same as "Conditional Use"?

10 MR. CALLOWAY: Absolutely not.

11 MS. REAVES: All right. And what are the --- what is the  
12 basis for a "Conditional Use"?

13 MR. CALLOWAY: A Conditional Zoning?

14 MS. REAVES: Conditional Use, Conditional Zoning.

15 MR. CALLOWAY: A Conditional Zoning, so Conditional  
16 Use and Conditional Zoning are separate things. The County's prior  
17 Conditional Ordinance to Conditional Uses, since the update in 2020, we  
18 have renamed all Conditional Districts from Conditional Use to  
19 Conditional Zoning. A Conditional Zoning District would indicate that the  
20 property owner, whoever it was at that time, could apply for the zoning and  
21 place upon themselves, voluntarily, conditions --- agreed upon conditions  
22 limiting their private property rights in order to have that zoning district,  
23 which might limit their usage or development rights.

24 MS. REAVES: Okay. But that's done by application, is that  
25 correct?

1 MR. CALLOWAY: Yes, that is a voluntary application.

2 MR. EKLAN: Objection to the form.

3 MS. REAVES: I'll rephrase the question.

4 MS. REAVES: How do you obtain a Conditional Use or  
5 Conditional Zoning?

6 MR. CALLOWAY: The property owner must submit an  
7 application --- a completed application and then after staff has prepared the  
8 case, we present it in a Public Hearing, a Legislative Hearing, to the  
9 Planning Board and the Planning Board ,within Guilford County, if  
10 approved in the affirmative, with the super majority, 75% of the Board,  
11 they are the final decision makers, however, if they approve without a  
12 super majority, it is automatically put toward the Guilford County  
13 Commissioners and they would have the final decision. If it's denied by  
14 the Planning Board, it can be appealed to the Board of County  
15 Commissioners, and they would have final authority.

16 MS. REAVES: So, that is a written application and not an  
17 oral representation?

18 MR. CALLOWAY: Yes, Ma'am. We must receive a  
19 completed application.

20 MS. REAVES: Thank you for that. The AG part of the  
21 property, you kind-of already touched on that, but let's just clarify for the  
22 Board. Is the AG part of the subject property suitable for any HI activity  
23 that is currently being conducted on that property?

24 MR. ELKAN: Objection. Foundation.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

MS. REAVES: I don't really understand  
the objection on that, as far as foundation.

MR. ELKAN: It presupposes facts that are  
not in testimony that he has testified to.

MS. REAVES: He's testifying to the use  
of the property. It's the whole basis for the  
Hearing.

MR. ELKAN: I won't engage with the  
Counsel. I've noted my objection, for the record.  
I think it's improper to argue. That's between  
Counsels.

MS. REAVES: I can rephrase the  
question.

MS. REAVES" Is any part of the Recycle business being  
operated on the AG portion of the property?

MR. ELKAN: Objection. Vagueness. I  
don't know what she's asking. That's why I'm  
objecting.

MS. REAVES: I don't think the question  
is vague, at all, I think its cut and dry----

MR. ELKAN: By the way---

MS. REAVES: ----if you pull of the  
HI----

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. ELKAN: By way of explanation, the past use of the property was for Maintenance and for diesel trucks, et cetera----

MS. REAVES: Objection to him testifying. Your Honor, you can't testify.

MR. ELKAN: It's so --- the issue --- the basis for my objection is---

MS. MILLER: Just a moment, let's pause for just a minute, please.

(Thereupon, the Board members were speaking among themselves off the record)

MS. MILLER: Thank you, you may continue, Mr. Elkan.

MS. REAVES: You can go ahead and answer my question, if any of the HI activity or recycling junk yard --- metal recycling of a junk yard, spilling onto operating in the AG section of the property?

MR. ELKAN: Objection.

MS. MILLER: I'm sorry, Ms. Reaves, whenever we paused, Mr. Elkan was objecting.

MR. ELKAN: Yes, Ma'am. I think she can ask him what activities were occurring on --- that he observed, were occurring on different portions of the property. What I don't think she can ask him, is what recycling activities were occurring on the AG portion of the property

1 that requires him to determine what a recycling  
2 activity is, et cetera, et cetera, So, I think he can,  
3 you know, who, what, when, why, where and  
4 how, it's the leading aspect of the question that is  
5 objectionable and I'd like it to be corrected.

6 MS. REAVES: It's the same thing.

7 MS. REAVES: Can you tell the Board what activities were  
8 unlawfully occurring on the AG portion of the property.

9 MR. ELKAN: Objection. Same grounds.

10 MS. REAVES: I'll strike the  
11 "unlawfully" ---- Your Honor, there's no other  
12 way to ask this, except to say --- okay.

13 MS. REAVES: What actions were occurring on the  
14 AG portion of the property?

15 MR. CALLOWAY: Yes, Ma'am. Mr. Bass, can you please  
16 go to page 8?

17 MR. EKLAN: I'd object as non-  
18 responsive.

19 MR. CALLOWAY: I have a response and it is illustrated  
20 with this photo I'm going to show.

21 MS. REAVES: So, let me --- so then, let me lay the  
22 foundation. If the Board and Mr. Bass could turn to Exhibit #2, which is on  
23 page PDF page 6, for the Board, that's your page 5, and it says, "Exhibit  
24 #2".



1 MS. REAVES: And if you could go to the  
2 next set of photos.

3 MS. REAVES: Mr. Calloway, can you tell the Board what  
4 this set of photos for Exhibit #2, constitutes?

5 MR. CALLOWAY: Yes. So, Mr. Bass can continue for the  
6 next few pages. These are the photos that we --- myself and Ms. Graybeal  
7 took when we were on the site during that noted trip, where we had a GPS  
8 and we were able to find the boundaries of the HI zoning district. Mr. Bass,  
9 will you go to the next page, please?

10 MS. REAVES: Can you tell the Board the date that you took  
11 these photos?

12 MR. CALLOWAY: October 11, 2022.

13 MS. REAVES: All of the photos were taken on October 11<sup>th</sup>,  
14 for the Exhibit?

15 MR. CALLOWAY: No, no. So, the first three (3) photos  
16 were taken from the right-of-way----

17 MS. REAVES: Just tell the date that they were taken, please.

18 MR. CALLOWAY: August 24<sup>th</sup>, 2022.

19 MS. REAVES: And what about the next set of photos?

20 MR. CALLOWAY: They were taken October 11<sup>th</sup>, 2022.

21 MS. REAVES: And did you gather these in the normal  
22 course of business?

23 MR. CALLOWAY: Yes.

24 MS. REAVES: And did you take them yourself?

1 MR. CALLOWAY: The August photos, I took them by  
2 myself.

3 MS. REAVES: Okay, and what about the October 11<sup>th</sup>,  
4 photos?

5 MR. CALLOWAY: I was accompanied by Ms. Graybeal.

6 MS. REAVES: Okay, did you take these photos or see her  
7 take the photos?

8 MR. CALLOWAY: Yes, Ma'am.

9 MS. REAVES: And so you have personal knowledge of the  
10 photos taken on October 11<sup>th</sup>?

11 MR. CALLOWAY: Yes, Ma'am

12 MS. REAVES: Okay. And did you review them in  
13 preparation for today's Hearing?

14 MR. CALLOWAY: Yes, Ma'am.

15 MS. REAVES: If there are no objections,  
16 I ask that the proposed Exhibit #2, be admitted  
17 into evidence. If there are no objections.

18 MR. ELKAN: No.

19 MS. MILLER: Seeing none, we will  
20 accept.

21 MS. REAVES: Thank you, Madam Chair.

22 MS. REAVES: Okay. You were going to tell the Board  
23 what activities were occurring on the AG portion of the subject property.

24 MR. CALLOWAY: Yes, Ma'am. With metes and bounds  
25 and the application of the Kogo software system, we were able to get the

1 coordinates and were able to put those coordinates into a very, very precise  
2 GPS unit, and with that GPS unit I was able to find the exact boundaries of  
3 that HI zoning district. In our packets, we can see it in that longer photo,  
4 there is a----

5 MS. REAVES: What page is that on?

6 MR. CALLOWAY: ---- in our packet it is number 8---

7 MR. ELKAN: I will object on the basis of  
8 lack of foundation, as to his testimony as to the  
9 metes and bounds and placing that on the ground.

10 MS. REAVES: Madam Chair, he  
11 allowed the Exhibits to come in, He's already  
12 testified to the metes and bounds being done  
13 using their software out there. Again, it's public  
14 information that is in the record and is based on  
15 the 1970 letter that is already in the record.

16 MR. ELKAN: I would state that the  
17 location of the metes and bounds, as he has  
18 located it on the property and she's attempting to  
19 testify, lacks foundation. I want to maintain that  
20 objection.

21 MS. REAVES: I stay with what I  
22 reported to the Board --- I mean, what I just  
23 stated to the Board. It's already in Evidence.

24 MR. ELKAN: There is nothing in

1 Evidence regarding the metes and bounds, that's  
2 laid out on the property. You have pictures that's  
3 in Evidence. There was-

4 MS. REAVES: You have a letter that's in  
5 Evidence.

6 MR. MASON: The Chair has already  
7 ruled on this objection. The Chair has already  
8 ruled on this objection the objection to placing  
9 the metes and bounds on the schematic of the  
10 property.

11 MR. ELKAN: Well, I----

12 MR. MASON: The Chair ruled on the  
13 objection.

14 MR. ELKAN: I do not recall that. Where  
15 there was ---

16 MS. MILLER: I apologize. My voice is  
17 somewhat low. Overruled.

18 MR. CALLOWAY: So, that larger photo, if turned right-side-  
19 up, and I understand it would be difficult for you to see it like that, but in  
20 front of you, you have it. There is a block-like structure and a pile of  
21 debris. The northeastern corner --- the upper boundary of the HI zoning  
22 district, square in the middle of that debris pile. And so, everything outside  
23 of that, is in the AG zoning district. So, the majority of the actual metal  
24 crushing and storage of these --- the equipment and the materials, was in  
25 the AG zoning district.

1 MS. REAVES: What are we looking at in the picture below  
2 that? Just a different point of view?

3 MR. CALLOWAY: Yes, that's looking in towards the  
4 property going to the east.

5 MS. REAVES: Okay, were there any other areas identified in  
6 your photos as to what activity is being conducted on the AG section of the  
7 property?

8 MR. CALLOWAY: In these photos from the site visit, no.  
9 However, north of the Heavy Industrial zoning portion of the property,  
10 there is single-family residential use. There is a house on the property. At  
11 least, one (1) house.

12 MS. REAVES: And how is that relevant to what you're  
13 testifying here today?

14 MR. CALLOWAY: I'm answer the question on what are the  
15 uses in an AG zoning district.

16 MS. REAVES: Okay. Thank you for clarifying that. So, let's  
17 go back to the Notice of Violation. That is on page 16 through 18. Sorry ---  
18 That's not where I'm at --- I want to go to the Appeal. I apologize, which is  
19 on page 13. It starts on page 13.

20 You were going over the three (3) items that were noted by Counsel  
21 and you talked about the focus on Conditional Use. Can you talk to the  
22 Board about continuation --- excuse me --- STRIKE THAT --

23 About the second defense here?

24 MR. CALLOWAY: Yes, continuation of prior conforming  
25 use, AG one (1) family occupation or prior non-nonconforming use.

1 MS. REAVES: And is that a crime in this matter, to avoid a  
2 Notice of Violation?

3 MR. CALLOWAY: No. So, there are two (2) types of non-  
4 conforming use, when it comes to uses. There are legal non-conforming  
5 use and illegal non-conforming use. In reference to a legal non-conforming  
6 use, which is known as “Grandfathered” use, that would be a use that  
7 might have existed before zoning was applied to a property, and in the  
8 instance of a legal non-conforming use, it is allowed to continue unless it is  
9 ceased for twelve (12) months, at which point, that non-conforming use  
10 cannot come back, but it could not get expanded. And then, illegal non-  
11 conforming use, if someone started doing something illegally and it is in a  
12 district in which it was not permitted, after the application of a zoning  
13 district, and so there is no basis for the continuation or expansion of an  
14 illegal non-conforming use.

15 MS. REAVES: And as to the third defense here, for the  
16 Appeal.

17 MR. CALLOWAY: Conforming Use, so can I read ----

18 MS. REAVES: Sure.

19 MR. CALLOWAY: ---the next part? Because I think it will  
20 be easier for me to talk about it. Guilford County is estopped from and may  
21 not otherwise enforce the interview against Cardinal Metals, because  
22 among other things, Cardinal’s operations on the property are in accord  
23 with respect that applicable HI and AG land use restrictions and  
24 requirements of the UDO, under the circumstances.

25 MS. REAVES: Is that correct?

1 MR. CALLOWAY: No.

2 MS. REAVES: Why not?

3 MR. CALLOWAY: As illustrated by peridium of the Use  
4 Matrix, the extension of Heavy Industrial use into an AG zoning district is  
5 not permitted. So, it would not be conforming to the UDO restrictions or  
6 requirements.

7 MS. REAVES: All right. Is there anything you would like to  
8 tell the Board --- anything else about the violations on the property?  
9 Anything you didn't elaborate on, already?

10 MR. CALLOWAY: No, Ma'am.

11 MS. REAVES: Mr. Bass, if you  
12 could go to PDF page 21, for the Counsel, that  
13 would be your page 20.

14 MS. REAVES: Mr. Calloway, can you tell the Board what  
15 this proposed Exhibit #6 is?

16 MR. CALLOWAY: This is a business report from the North  
17 Carolina Secretary of State. What it details is ----

18 MS. REAVES: Did you collect this document in the normal  
19 course of business?

20 MR. CALLOWAY: Yes, Ma'am.

21 MS. REAVES: Why?

22 MR. CALLOWAY: Because central to this case is the  
23 operation of a commercial entity and whenever we are getting these cases,  
24 regarding commercial activities at entities, we collect this document from

1 the Secretary of State to ensure that we are working with registered or  
2 managing members of the LLC.

3 MS. REAVES: Okay, and who was this report pulled for?

4 MR. CALLOWAY: This is for Cardinal Metals.

5 MS. REAVES: And do you remember when you pulled it?

6 MR. CALLOWAY: February 2<sup>nd</sup>, 2023.

7 MS. REAVES: And did you verify that that was the business  
8 being operated on the property?

9 MR. CALLOWAY: Yes, Ma'am.

10 MS. REAVES: And who is the managing member?

11 MR. CALLOWAY: The managing member is Randall L.

12 Baisden.

13 MS. REAVES: And is he related to the owner of the  
14 property?

15 MR. CALLOWAY: Yes, Ma'am.

16 MS. REAVES: And who is the owner of the property?

17 MR. CALLOWAY: Heather Baisden.

18 MS. REAVES: All right. Madam Chair, if  
19 there are no objections we ask that Exhibit #6 be  
20 admitted into Evidence, just to determine the  
21 name of the business.

22 MS. MILLER: Admitted.

23 MR. ELKAN: No objection.

24 MS. REAVES: Mr. Bass, would you turn



1 to Exhibit #4, which is on your PDF page 12, for  
2 the Council, it is page 11, BATES page.

3 MS. REAVES: Mr. Caloway, can you tell the Board what  
4 this Exhibit #4 is?

5 MR. CALLOWAY: Yes, Ma'am, this is a map of ---  
6 illustrating zoning at the subject property and the surrounding area.

7 MS. REAVES: And where I such a property --- what parcel  
8 is illustrated on this map?

9 MR. CALLOWAY: It is parcel #144107, it is the parcel that  
10 is hatched.

11 MS. REAVES: And did you collect this in the normal course  
12 of business?

13 MR. CALLOWAY: Yes, Ma'am.

14 MS. REAVES: And when did you pull this zoning map and  
15 from where?

16 MR. CALLOWAY: We collected this prior to the --- it was  
17 given to us by GIS, during the preparation for this case in the proceeding  
18 months.

19 MS. REAVES: And you said the "proceeding months", was  
20 this prior to or after the Notice of Violation?

21 MR. CALLOWAY: This was after the Notice of Violation.  
22 We asked --- whenever we know that we have a case, we inform GIS to  
23 provide for us several maps, and so, we were given this map as soon as we  
24 knew that this Hearing would have been scheduled.

25 MS. REAVES: And is this public information?

1 MR. CALLOWAY: Yes, Ma'am.

2 MS. REAVES: And what do you intend to do show on this?

3 MR. CALLOWAY: We are showing the boundaries of the HI  
4 zoning district, as well as the residential RS-40 district to the south and the  
5 AG zoning district to the north and the east, abutting this property.

6 MS. REAVES: And is this the actual boundaries, or just a  
7 representation?

8 MR. CALLOWAY: This is --- this --- I'm not sure. So, when  
9 we get documents from GIS, there is an error that is conveyed, inherently,  
10 because the -- our project submissions are going off the best information  
11 that we have, and so, there --- it's never going to be as precise as actually  
12 having the metes and bounds and using GPS or surveyors to go find  
13 locations.

14 MS. REAVES: So, I'll renew my questions, is it a  
15 representation?

16 MR. CALLOWAY: Yes, Ma'am. It's as accurate of a  
17 representation as our GIS Department could deliver.

18 MS. REAVES: And is this a public document?

19 MR. CALLOWAY: Yes, Ma'am.

20 MS. REAVES: If there are no  
21 objections, I ask that Exhibit #4, be entered into  
22 Evidence.

23 MR. ELKAN: I object ---

24 MS. REAVES: Not for the truth of

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

the matter, just for representation of the shape of the property. If there are no objections.

MR. ELKAN: I would, just to clarify for the record, I object to the admission of the Exhibit to show --- to accurately depict the different zoned portions of the property, which I believe the testimony lacks foundation to show that. I do not object to the admission of the document to show that that is what the Zoning folks received from the GIS folks of the County.

MS. REAVES: No objection to that.

MS. MILLER: Admitted, as stated.

MS. REAVES: Madam Chairman, as to Exhibit #10, that's on page 91, if there are no objections, I'm not going to have my client testify to this. I ask Exhibit #10, be admitted into Evidence, as a public document with the Register of Deeds, just to show ownership of the property. If there are no objections.

MS. MILLER: Admitted.

MS. REAVES: Thank you.

1 MS. REAVES: Mr. Calloway, is there anything else that you  
2 would like to tell the Board about this violation --- the Notice of Violation?

3 MR. CALLOWAY: No, Ma'am.

4 MS. REAVES: Those are my questions of  
5 Mr. Calloway. I render him for Cross, to Mr.  
6 Elkan.

7

8 **CROSS EXAMINATION**

9 MR. ELKAN: Madam Chair, are you  
10 ready to proceed?

11 MS. MILLER: Can everyone still hear  
12 Mr. Elkan?

13 MR. ELKAN: Mr. Calloway, did you discuss a "floating  
14 zoning" issue with Mr. Bass, at all?

15 MR. CALLOWAY: Whenever --- received the Appeal,  
16 no document that comes in to us is cached to one (1) person. We review  
17 everything as staff, and so, whenever the Appeal came in, we looked it  
18 over at staff meetings and things and we discussed the claim of "floating  
19 zoning". So, after we received the letter, I did have discussions with Mr.  
20 Bass and the rest of the staff about that subject.

21 MR. ELKAN: Did Mr. Bass tell you that he had discussions  
22 with Mr. Baisden regarding the zoning on the property, prior to  
23 Mr. Baisden purchasing the property?

24 MR. CALLOWAY: Yes.

1 MR. ELKAN: And did he tell you that those discussions  
2 involved the term, "floating zoning"?

3 MR. CALLOWAY: No.

4 MR. ELKAN: Did he tell you that Mr. Baisden inquired as  
5 to whether his Auto Salvage and Recycling operation would be allowed on  
6 the property?

7 MR. CALLOWAY: I do not recall.

8 MR. ELKAN: Do you recall that Mr. Bass had informed Mr.  
9 Baisden that, in fact, his Auto Salvage and Recycling operation that he had  
10 planned, would be allowed in a portion of the property?

11 MR. CALLOWAY: No, Sir.

12 MR. ELKAN: You don't recall, is that correct?

13 MS. REAVES: Objection, asked and  
14 answered.

15 MS. MILLER: Sustained.

16 MR. ELKAN: Are you aware that the use of property for  
17 many decades was as a Diesel Truck Repair, Salvage and Recycling  
18 operation?

19 MR. CALLOWAY: That is not correct. That is not the right  
20 way to state it. To the best of my knowledge, the use was Diesel, Diesel  
21 Repair, i.e., I'm not quite certain they would have the extension of the Junk  
22 Salvage Yard, if that's the lead-in, because I think that would be --- that  
23 would not be accurate.

1 MR. ELKAN: You are aware that, for decades, the operation  
2 on the property, including the AG portion of the property, included Diesel  
3 Truck Repair?

4 MR. CALLOWAY: No.

5 MR. ELKAN: You agree that there was Diesel Truck Repair  
6 operations on the five (5) acre property, is that correct?

7 MS. REAVES: Objection, asked and  
8 answered.

9 MR. ELKAN: I'm trying to clarify.

10 MS. MILLER: Overruled.

11 MR. ELKAN: Did you hear my question, the way I asked it?

12 MR. CALLOWAY: I am okay to answer it. We have no  
13 record of the prior owner of the property that had the diesel operation ---  
14 the Diesel Repair operation operating outside the HI zone boundary.

15 MR. ELKAN: Are you aware that there are buildings on the  
16 property that can accommodate diesel truck repair, that are located outside  
17 the HI portion of the property, correct?

18 MS. REAVES: Objection, speculation as  
19 to what they can hold.

20 MS. MILLER: Sustained.

21 MR. ELKAN: You are aware that there are garage buildings  
22 on the property, that are located outside the HI portion of the property?

23 MR. CALLOWAY: I am not aware of when they were  
24 constructed. I know they exist now.

1 MR. ELKAN: Did you investigate what the uses of the  
2 property were, prior to issuance of the NOV?

3 MR. CALLOWAY: Yes, and we found that the previous  
4 owners had a diesel repair operation on the property. We have no  
5 indication --- no record that that operation extended beyond the HI zoned  
6 district.

7 MR. ELKAN: The garage buildings that are located outside  
8 the HI zoning district are not an indication that the diesel repair operations  
9 occurred outside of the HI zoning?

10 MR. CALLOWAY: No.

11 MR. ELKAN: I'm just going to pass out  
12 what has been marked as Defendant's Exhibit #1.

13 MR. ELKAN: Mr. Calloway, please take the time to  
14 familiarize yourself with that Exhibit.

15 MR. ELKAN: May I approach?

16 (Thereupon, Mr. Elkan presented documents to the Board  
17 members for their review)

18 MR. ELKAN: Mr. Calloway, I have handed you what has  
19 been marked "Defendant's Exhibit #1. I will represent to the Board and to  
20 you that this packet of documents were requested by my law firm, from  
21 EDR Aerial Photos and were received from EDR and are, as indicated by  
22 EDR, depictions of aerial photos and if you turn to page 2, it indicates the  
23 aerial photo date and year and corresponding photo.

24 MS. REAVES: Madam Chair, I'm going

1 to object to the introduction of this document for  
2 the truth of the matter. EDR is not here to testify.  
3 Lack of foundation. I would not object as to the  
4 shape of the property.

5 MR. ELKAN: That's fine. I'm going to  
6 move to admit it, on the basis of my testimony  
7 that this was ordered from EDR, that EDR  
8 provided the documents' information indicating  
9 that these photos are true and accurate depictions  
10 of aerial photography of the property on the dates  
11 indicated.

12 MS. REAVES: And I would object of the  
13 basis of hearsay and that the attorney is not a  
14 witness and he can't lay his own foundation, for  
15 EDR.

16 MS. MILLER: Sustained.

17 MR. ELKAN: I would ask that the Board  
18 take judicial notice of the Exhibit, in the  
19 alternative.

20 MS. REAVES: Under --- judicial notice  
21 under what? Under what basis?

22 MR. ELKAN: They have the  
23 authority --- they have discretion to take judicial  
24 notice of the Facts that are of public record.



1 MS. REAVES: EDR is not a public entity  
2 and it is also not a source whose accuracy  
3 cannot reasonably be questioned.

4 MR. ELKAN: I'll make it easy for you.  
5 They go --- I'll try --- I mean, I will make a  
6 proffer that is regardless of your Evidentiary  
7 Rule, so --- I don't want to argue with Counsel  
8 for the Board, but ---

9 MR. MASON: I think she ruled.

10 MR. ELKAN: Did she?

11 MR. MASON: She did.

12 MS. MILLER: I apologize again. I did say  
13 that her objection was sustained.

14 MR. ELKAN: That's fine. Then, I would  
15 like the Board's permission to make a proffer of  
16 evidence and question the witness regarding the  
17 document.

18 MS. MILLER: Okay, go ahead.

19 MR. ELKAN: So, Mr. Calloway, I bring your attention to the  
20 aerial photos and if you flip through --- in reverse chronological order, and  
21 I believe you testified that the HI zoning was approved in 1970, is that  
22 correct?

23 MR. CALLOWAY: Yes, Sir.

24 MR. ELKAN: So, if you would, please turn to the page  
25 indicating the aerial photo of 1970.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

MS. REAVES: Your Honor, the document has not been admitted into Evidence and because that has been --- that objection was sustained, my client can't testify to it. I'm going to object to any reference to the documents, at all.

MR. ELKAN: May I explain what I'm intending to do in the request to the Board?

MS. MILLER: Does this have to do with the shape of the property, which she did not object to?

MR. ELKAN: It has to do with the use of the property as shown, and the extent of the use of the property as shown in the aerial photographs and what I'm trying to do, for the record on Appeal, is proffer evidence despite the objection, so when you don't have a jury and you just have folks like yourselves, that are making determinations as if it was a bench trial, you make an offer of evidence to preserve the matter for them. That is what I'm attempting to do.

MR. JOHNSON: He's trying to establish that it has a history of being something --- that does not ---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. MILLER: Do you want to enter this  
as evidence?

MR. JOHNSON: No.

MR. MASON: Madam Chair, may I make  
an inquiry of Counsel?

MS. MILLER: Of course.

MR. MASON: Are you just trying to  
ensure that this Defense Exhibit #1 is preserved  
in the event of an Appeal, so that you can show  
what was excluded? Is that the intent?

MS. ELKAN: The intent is what his  
testimony would have been, so that we all don't  
have to come back. It's the Board's prerogative,  
that is my intent, is to --- and I'm not going to go  
on and on, I'm going to be briefly ask questions  
of the witness about the --- that the Exhibit is  
preserved, I grant you that. The request is to  
question the witness.

MR. MASON: Madam Chair, what I  
would advise the Board is this, he can ask  
questions of this witness. If they are  
objectionable, Counsel for the Planning  
Department can object and the Board can rule at  
that point. Not knowing what his questions may  
be, we can't pre-judge that.

1 MR. ELKAN: And again, I'm trying to  
2 make things reasonable in terms of proceeding  
3 here, and my last question would be that all I'm  
4 asking about is what the photographs show and  
5 the use of the property. So that's the extent of  
6 what I'm asking now.

7 MR. MASON: Madam Chair, I think he'll  
8 just need to ask his questions and if they're  
9 objectionable, there will be an objection, and we  
10 deal with them that way. That would be my  
11 suggestion to the Board.

12 MS. MILLER: This Counsel has already  
13 objected to this being entered, so how can we  
14 allow him to ask questions based on the  
15 document that we haven't entered into Evidence?  
16 How do we do that?

17 MR. MASON: Given that we don't know  
18 what the questions are going to be yet, I can't  
19 say.

20 MS. MILLER: Okay. Please proceed.

21 MR. ELKAN: Thank you, Madam Chair.  
22 Thank you, Counsel.

23 MR. ELKAN: So, I was asking you please, look with me at  
24 the photograph --- aerial photograph of 1970. Mr. Calloway, do you see  
25 that?

1 MR. CALLOWAY: Yes, Sir.

2 MR. ELKAN: And I would ask you to describe, in your own  
3 words, what that depiction's of?

4 MR. CALLOWAY: Undeveloped land.

5 MR. ELKAN: And if you turn to the 1977 aerial photograph,  
6 and that depicts several buildings on the property, does it not?

7 MS. REAVES: Your Honor, I'm going to  
8 object to this as to the truth of the matter  
9 asserted. I think Mr. Calloway has already  
10 testified that he didn't know, because no  
11 complaints came in. And I don't think going  
12 through page to page, to page of this is going to  
13 change that testimony. I think this is a back way  
14 in to get the evidence into the record that's  
15 already been denied, as to the record. If Mr.  
16 Elkan would like to preserve this as part of the  
17 record, as being excluded, I would just ask that  
18 the Board keep it as part of the record, but not as  
19 part of my client's testimony. He cannot testify to  
20 these photos.

21 MS. MILLER: Sustained.

22 MR. ELKAN: Mr. Calloway, did you inquire with  
23 Mr. Baisden or anyone with Cardinal Metals, as to past use of the  
24 property?

25 MR. CALLOWAY: No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. ELKAN: No further questions.

MS. MILLER: Does anyone on the Board have any questions for Mr. Elkan?

MR. STANDLEY: I would like to make a statement to be accurate. One (1) question, quickly, one (1), when you're testifying, please --- you use a lot of terms that nobody in the audience, probably, understands. When you say things like, "GIS", can you please briefly explain what they are, at some point?

MR. CALLOWAY: My apologies.

MR. STANDLEY: I'm sure if we went around the room, a lot of people did not know what the heck we're talking about.

MR. CALLOWAY: G.I.S. stands for Geographic Information Systems. We are able to get maps and parcels drawn and the daily business of property owners completed, because we have people who are trained to map these parcels and items. It is a profession that all of us relied upon in order to do our daily jobs.

MR. STANDLEY: Thank you. The Board, I think, knows that stuff, but people in the audience probably, do not. I've got a quick question. On the photographs in your Exhibits,

1 from your visit to the site, what appeared to be  
2 represented in the photos, did you --- because one  
3 (1) of the photos represent the auto crushing  
4 operation, itself? Which I assume is the major  
5 nuisance noise on the site. I see piles of things,  
6 but I don't know what a auto crushing machine  
7 looks like.

8 MR. CALLOWAY: Yes. I'm probably  
9 not the best to answer that question. I can point to  
10 large pieces of industrial equipment.

11 MR. STANDLEY: Okay, so we really  
12 don't know what the auto crushing device is  
13 here?

14 MR. CALLOWAY: Well, I can tell you,  
15 when we were there, we were seeing these  
16 excavating-type pieces of equipment moving the  
17 pieces of cars and what-have-you to the piles.

18 MR. STANDLEY: Okay, thank you.

19 MS. MILLER: Anything else,  
20 Mr. Johnson or Mr. Standley?

21 MR. JOHNSON: I'm with you on that  
22 "floating zoning", there's no such thing. I've  
23 been in real estate for thirty (30) years and  
24 there's no "floating zoning", either it is or it is  
25 not, and I don't know where that term came

1 from, but I agree with you on not being able to  
2 find a definition for that.

3 MS. MILLER: Thank you, Mr. Calloway.

4 MS. REAVES: Madam Chair, at this time  
5 I'd like to call Oliver Bass and have him  
6 affirmed.

7 MS. MILLER: Hi, Mr. Bass, how are you  
8 doing?

9 MR. BASS: I'm good.

10 MS. MILLER: Good. Trying to break the  
11 ice in here a little bit. Do you swear to tell the  
12 truth, the whole truth and nothing but the truth?

13 MR. BASS: I do.

14 MS. MILLER: Thank you.

15 MS. REAVES: Thank you, Madam Chair.

16

17 **DIRECT EXAMINATION**

18 MS. REAVES: Mr. Bass, can you please state your name for  
19 the record?

20 MR. BASS: My name is Oliver Bass.

21 MS. REAVES: Can you tell the Board where you work and  
22 what your position is there?

23 MR. BASS: I work with Guilford County Planning &  
24 Development Department and my position is Senior Planner.



1 MS. REAVES: And how long have you been with the County  
2 in that position?

3 MR. BASS: Since June of 2015.

4 MS. REAVES: Are you familiar with the Appellant and such  
5 property, in this matter?

6 MR. BASS: Yes, I am.

7 MS. REAVES: And how do you know the Appellant and  
8 how are you familiar with the property?

9 MR. BASS: Well, I know the Appellant as the owner and  
10 operator of the facility that is on the site.

11 MR. ELKAN: What was your question. I  
12 missed it.

13 MS. REAVES: How do you know the  
14 Appellant and how are you familiar with the  
15 property?

16 MR. ELKAN: Oh, okay.

17 MR. BASS: And there were a series of inquiries on the  
18 property that I am familiar with and I am familiar with the rezoning case.

19 MS. REAVES: Okay.

20 MR. BASS: I mean, the violation case.

21 MS. REAVES: Are you also --- well, strike that ---

22 Have you entered into any collaborative, corrective plans, and if so,  
23 can you tell the Board what those are, regarding the property?

1 MR. BASS: Well, my primary role in this process is the  
2 zoning component of the property. I have limited involvement in the  
3 Violation case of the general discussions with other staff.

4 MS. REAVES: Has the Appellant submitted a Rezoning  
5 Application, to your Department?

6 MR. BASS: We have received a Rezoning Application, yes,  
7 Ma'am.

8 MS. REAVES: And can you tell the Board when you  
9 received that?

10 MR. BASS: I received it on Monday, October 2<sup>nd</sup>, of 2023.

11 MS. REAVES: Was that the first submission?

12 MR. BASS: That was the first submittal of the application.

13 MS. REAVES: Okay, and were there any other items  
14 submitted to your Department seeking rezoning?

15 MR. BASS: Well, prior to the Rezoning Application we did  
16 have an opportunity --- the applicant --- the Appellant did present a  
17 Rezoning Plan and I reviewed it for comments.

18 MS. REAVES: And did they submit it to you more than  
19 once?

20 MR. BASS: They submitted it to me a total of three (3) times.  
21 Two (2) revisions.

22 MS. REAVES: Okay, and can you give us the time period  
23 that those were submitted to you?

24 MR. BASS: Well, the initial site plan was submitted, I  
25 believe, May 18<sup>th</sup>. I replied within a couple of --- within two (2) or three

1 (3) days, offering my mark-ups. And then I had a subsequent meeting with  
2 the Appellant attorney and their representative to discuss some of the items  
3 related to the sketch plan. And then we received another submission with  
4 the application.

5 MS. REAVES: Okay, and for each of those reviews that you  
6 did for those submissions, did they update each time you requested that?

7 MR. BASS: Yes, they did.

8 MS. REAVES: Okay, and is that required prior to the  
9 submission of a Rezoning Application?

10 MR. BASS: It's not mandatory --- it's not mandatory that  
11 they submit the sketch plan, however, it was advised given the nature of  
12 the case that they do submit a sketch plan because it was a partial rezoning  
13 of a property and we wanted to make sure the boundaries of the rezoning  
14 was accurate.

15 MS. REAVES: Has a Hearing date already been schedule  
16 before the Planning Board regarding the rezoning?

17 MR. BASS: Well, given that we received the application on  
18 October 2<sup>nd</sup>, and pending any revisions that was requested on technical  
19 corrections to the applicant, it would be heard at the November 8<sup>th</sup> meeting.

20 MS. REAVES: And can you tell the Board just what that  
21 process is --- now that that Rezoning Application has been submitted, what  
22 the process is?

23 MR. BASS: Well, once we receive a complete application,  
24 the process will be heard at the next available Planning Board meeting,  
25 which is November. Depending on what the Planning Board decision is, it

1 can be decided --- the Rezoning Case can be decided on that night, it could  
2 be extended to another meeting, and depending on the vote of the Planning  
3 Board, it could be sent on Appeal or as a recommendation to the Guilford  
4 County Board of Commissioners.

5 MS. REAVES: And since the Appeal was filed, and you've  
6 been requesting site plans, has the Appellant been cooperative with you?

7 MR. BASS: Yes, they've been cooperative.

8 MS. REAVES: Okay. Can you tell the Board what kind of  
9 revisions were made in between May and October 2<sup>nd</sup>? Whether it was  
10 major or minor?

11 MR. BASS: It was --- it wasn't ---it was minor to the extent  
12 that they didn't meet the technical requirements for submitting a rezoning,  
13 in terms of the proposed boundary of the rezoning request. So, they was  
14 asked to revise it, to ensure that it met the technical requirements of filing  
15 the application, based on the Ordinance.

16 MS. REAVES: And so, were there just resubmissions of the  
17 sketch plans or did you guys have any meetings?

18 MR. BASS: We did have meetings where we discussed the  
19 potential boundaries of the rezoning and potential submittal of a  
20 Conditional or a regular rezoning request.

21 MS. REAVES: Okay, so can you tell us what the basis of the  
22 application --- the Rezoning Application, is it Conditional Use or is it a  
23 rezoning?

24 MR. BASS: The application that was submitted was a  
25 Conditional Zone.

1 MS. REAVES: Okay, is there anything else that you'd like to  
2 tell the Board about the submission of that Rezoning Application or any  
3 communications after the Appeal?

4 MR. BASS: Not at this time, no, Ma'am.

5 UNKNOWN SPEAKER FROM THE  
6 FLOOR: Tell them what "floating rezoning" is.

7 MS. REAVES: To entertain the noise back there, did you  
8 want to talk to the Board about "floating zoning" or Conditional Use or  
9 Conditional Zoning?

10 MR. BASS: I am not familiar with the terminology of  
11 "floating zoning", in the context of the Guilford County Unified  
12 Development Ordinance. It is not a concept that is represented in the  
13 Ordinance. However, Conditional Zoning allows the applicant to propose  
14 limitations on what the restriction that is beyond the scope of the Unified  
15 Development Ordinance. In terms of the type of uses that can go on the  
16 site, and any type of development conditions they could impose.

17 MS. REAVES: Did you, at any time, ever tell anyone related  
18 to Cardinal Metals that there was "floating zoning" attached to this  
19 property?

20 UNKNOWN SPEAKER FROM THE  
21 FLOOR: And put your hand on the Bible.

22 MS. MILLER: For everyone that's in the  
23 Gallery here tonight, we really appreciate you  
24 being here, and of course we appreciate the  
25 Appellant being here, as well. If you could

1 please refrain from remarks, you will have your  
2 turn later in the proceedings.

3 MR. BASS: I do not recall ever using the term “floating  
4 zoning in the context of Guilford County Unified Development Ordinance  
5 in its regulations.

6 MS. REAVES: Did anybody ever ask you or tell you that  
7 they were going to buy a property based on your advice to them?

8 MR. BASS: No.

9 MS. REAVES: Is there anything else you would like to tell  
10 the Board?

11 MR. BASS: I can’t think of anything at this time.

12 MS. REAVES: Madam Chair, those are  
13 my questions for Mr. Bass. I render him for  
14 Cross to Attorney Elkan.

15

16 **CROSS EXAMINATION**

17

18 MR. ELKAN: Mr. Bass, how are you?

19 MR. BASS: Okay.

20 MR. ELKAN: I just have a couple of questions for you. In  
21 between the meeting that you testified to in May, the first submittal for the  
22 sketch for the rezoning---

23 MR. BASS: Yes.

24 MR. ELKAN: ---and the submittal in September, isn’t it  
25 correct that the technical requirements that you informed us of, require

1 surveying --- a survey of the property to provide the information on the  
2 sketch that you said you needed?

3 MR. BASS: Correct.

4 MR. ELKAN: Thank you. And did you --- do you recall  
5 discussions with Mr. Baisden in January of 2022, or prior to his purchase  
6 of the property?

7 MR. BASS: I don't recall --- I recall having conversations  
8 regarding that property, I do not recall the party that was involved.

9 MR. ELKAN: Do you recall having conversations with  
10 Mr. Baisden's closing attorney, with respect to the zoning of that property?

11 MR. BASS: I do recall having a conversation with an  
12 attorney regarding that property.

13 MR. ELKAN: Do you recall communicating that regarding  
14 the allowable use of that property?

15 MR. BASS: Yes, I do.

16 MR. ELKAN: And do you recall communicating to them  
17 that the allowable use of the property would include auto salvage and  
18 recycling?

19 MR. BASS: I don't recall the specific use that was  
20 discussed, but that was a use discussed, to my memory.

21 MR. ELKAN: And you recall Mr. Baisden coming away  
22 from that conversation with the understanding that he could use the  
23 property for auto salvage and recycling?

24 MR. BASS: I am not clear that I know what his  
25 understanding was. I believe I communicated to him what the use

1 requirement, based on the zoning of the property was.

2 MR. ELKAN: And can you understand, coming out of that  
3 conversation, Mr. Baisden would believe that he was allowed to  
4 continue --- or to carry out auto salvage and recycling on the property?

5 MS. REAVES: Objection as to  
6 speculation and to what Mr. Baisden thought.

7 MR. ELKAN: If you know.

8 MS. REAVES: Objection.

9 MS. MILLER: Sustained.

10 MR. ELKAN: Did you convey to Mr. Baisden or his closing  
11 attorney that there was --- quote – unquote “floating zoning” on the  
12 property?

13 MR. BASS: I do not believe I used the words, “floating  
14 zoning”.

15 MR. ELKAN: Did you convey to them that the HI portion of  
16 the property was fixed or was dependent upon the operations that were  
17 carried out on the property?

18 MR. BASS: I conveyed to him what the zoning of the  
19 property was, portion, partially HI, partially AG.

20 MR. ELKAN: And did you convey the same things to Mr.  
21 Baisden’s closing attorney?

22 MR. BASS: Yes, I did.

23 MR. ELKAN: And is it possible that misunderstood when  
24 you communicated to them-----

25 MS. REAVES: Objection as to



1 speculation what they understood.

2 MS. MILLER: Sustained.

3 MR. ELKAN: How is it that Mr. Baisden's closing attorney  
4 came away from their conversations with you, with the understanding that  
5 they could carry our auto salvage or recycling operations on the property?

6 MS. REAVES: Objection as to what the  
7 Appellant's attorney --- closing attorney  
8 thought --- or how he came away with it.

9 MR. ELKAN: I asked him how is it?

10 MS. REAVES: It calls for speculation. I  
11 still object.

12 MS. MILLER: Sustained.

13 MR. ELKAN: No further questions.

14 MS. REAVES: Madam Chair, if I may  
15 have a short Redirect?

16 MS. MILLER: Yes.

17

18 **REDIRECT EXAMINATION**

19

20 MS. REAVES: Mr. Bass, is the Permitted Use Matrix in  
21 writing?

22 MR. BASS: Yes.

23 MS. REAVES: Is it part of the Unified Development  
24 Ordinance?

25 MR. BASS: Yes.

1 MS. REAVES: Is it publicly available?

2 MR. BASS: Yes.

3 MS. REAVES: No further questions.

4 MS. MILLER: Any questions from you  
5 guys?

6

7 **RECROSS EXAMINATION**

8

9 MR. STANDLEY: Mr. Bass, prior to  
10 this case, have you ever heard the term, “floating  
11 zoning”?

12 MR. BASS: I don’t recall. Maybe back  
13 in Grad school, several years ago. But I am not  
14 familiar with that term.

15 MR. STANDLEY: We have many years  
16 experience and we haven’t heard of it.

17 MR. ELKAN: Thank you, Sir.

18 MS. MILLER: Thank you, Mr. Bass/

19 MS. REAVES: Madam Chair, at this time,  
20 if I could call Kaye Graybeal and have her  
21 confirmed?

22 MS. MILLER: How are you?

23 MS. GRAYBEAL: I’m doing fine.

24 MS. MILLER: Do you swear or affirm

1 to tell the truth, the whole truth and nothing but  
2 the truth?

3 MS. GRAYBEAL: I do.

4 MS. MILLER: Thank you. Please  
5 proceed.

6

7

**DIRECT EXAMINATION**

8

9 MS. REAVES: Ms. Graybeal, would you please state your  
10 name for the record.

11 MS. GRAYBEAL: Kaye Graybeal.

12 MS. REAVES: And can you tell the Board where you work  
13 and what your position is there?

14 MS. GRAYBEAL: Guilford County Planning and  
15 Development, Deputy Director of Planning and Development.

16 MS. REAVES: And how long have you been with the County  
17 in that position?

18 MS. GRAYBEAL: Since April 11, 2019.

19 MS. REAVES: Okay. I know you're familiar with the  
20 Appellant in this matter or the subject property, at 5149 Randleman Road.

21 MS. GRAYBEAL: Yes.

22 MS. REAVES: And how are you familiar with this case?

23 MS. GRAYBEAL: Staff was asked to investigate potential  
24 zoning violation on the site, so we made the site visit, along with Aaron  
25 Calloway on October 11<sup>th</sup>, 2022.

1 MS. REAVES: And can you tell the Board what you found in  
2 your investigation on October 11<sup>th</sup>, 2022?

3 MS. GRAYBEAL: Based on the GPS coordinates and our  
4 mapping and our site visit, did inspections and we determined that --- we  
5 found that there way salvage parts, metal pad, that was beyond the zoning  
6 boundaries, between HI and AG.

7 MS. REAVES: And can you tell the Board what the purpose  
8 of those boundaries are, and any buffer zones on the property?

9 MS. GRAYBEAL: Well, the zoning boundaries, in this case  
10 on a split-zoned property, are to delineate where certain types of uses may  
11 of may not occur, based on our Zoning Ordinance Use Matrix. When you  
12 say, “buffers”, there are --- our Ordinance does require certain types of  
13 buffers, landscape buffers, between certain kinds of uses.

14 MS. REAVES: Was the Appellant cited for buffer  
15 violations?

16 MS. GRAYBEAL: No.

17 MS. REAVES: Okay. And can you just tell the Board what  
18 the Planning Department’s concerns were with HI activity spilling on over  
19 to AG land?

20 MS. GRAYBEAL: HI activity is not permitted on AG land.  
21 So, basically, we were concerned about a non-permitted use in the AG  
22 zone.

23 MS. REAVES: Okay. Is there anything else you’d like to tell  
24 the Board about your investigation on October 11<sup>th</sup>, or any other time that  
25 you went out to that site?

1 MS. GRAYBEAL: We did see activity adjacent to the  
2 northern property line, where, as you can see in the photographs in the  
3 aerial, where that northern property line is and there is a road that we were  
4 told trucks use as a turn-around on the property, and that road is adjacent to  
5 the northern property line, as well as some metal shipping container-type  
6 items and another piece of equipment that is similar to the equipment that  
7 was moving salvage parts around. It's up adjacent to the northern property  
8 line of the AG zoned property. And that is shown in the photographs and in  
9 the aerial view.

10 MS. REAVES: Okay.

11 MS. GRAYBEAL: So, that is how we made our  
12 determination that even if the GIS, the Geographic Information System,  
13 map may be off by a certain margin of error. We did see activity that was  
14 related to the HI activity adjacent to the northern property line of the AG  
15 zoned property.

16 MS. REAVES: Anything else?

17 MS. GRAYBEAL: No.

18 MS. REAVES: Okay, thank you so much for that.

19 MS. REAVES: Madam Chair,  
20 those are my questions for Kaye Graybeal. I  
21 would render Cross to Mr. Elkan.

22 MR. ELKAN: I have no questions.

23 MS. MILLER: Ms. Graybeal, before you  
24 leave, do you guys have any questions?

25 MR. STANDLEY: No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. JOHNSON: No.

MS. MILLER: Okay. Thank you.

MS. REAVES: You Honor, there are no further witnesses for the County at this time. Just reserve to recall, if necessary.

MS. MILLER: Okay.

MR. ELKAN: I would like to call Timothy Callicutt, please.

MS. MILLER: Sir, if you will, state your name address for the record.

MR. CALLICUTT: Taylor Callicutt. My office address is 206 Telephone Avenue, Asheboro, NC 27205.

MS. MILLER: Thank you. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

MR. CALLICUTT: I do.

MS. MILLER: Thank you.

**DIRECT EXAMINATON**

MR. ELKAN: So, Mr. Callicutt, could you tell the Board what your occupation is and how do you know --- if it's all right with Counsel --- how you know Mr. Baisden, Cardinal Metals and how you're familiar with the property.

1 MR. CALLICUTT: Sure. I'm a real estate attorney. I've been  
2 practicing about ten (10) years in Randolph County at that time I was  
3 practicing on a full-time basis, I'm currently --- I retired last summer, and I  
4 still do it part-time, but I'm familiar with Randall Baisden and Cardinal  
5 Metals because I was asked to do the closing on the subject property at that  
6 time and did commence the title search, deed, paperwork and so forth.

7 MR. ELKAN: And did you have an opportunity to speak with  
8 Mr. Baisden about the potential use of the property and zoning on the  
9 property?

10 MR. CALLICUTT: Yes, Sir, I did.

11 MR. ELKAN: Okay. And can you tell us a little bit about  
12 those discussions?

13 MR. CALLICUTT: Yes, Sir. I spoke with Randall, I knew he  
14 was relocating so I was familiar with him prior to the purchase of this  
15 property. I knew he was in the scrap yard operation and vehicle salvage.  
16 So, he told me he was looking to relocate, he had found a piece of property  
17 across the line, in Guilford County and asked that I help him with the  
18 paperwork to purchase the property, and I explained to him, kind of, what  
19 that process looked like. My understanding was, he was relocating his  
20 scrap yard from north Asheboro, across the line near  
21 Bills --- I knew it was close to Bill's Pizza, at that time, in Guilford  
22 County.

23 MR. ELKAN: And did you come --- did you have an  
24 opportunity to discuss whether his planned operation would be appropriate  
25 on the property he was looking to purchase?

1 MR. CALLICUTT: I did, yes, Sir. Generally, as --- I would  
2 say this --- generally, as a closing attorney, I don't get into a lot of the  
3 zoning issues for clients. I generally assume that the realtor or buyer is  
4 likely looking into that, unless I'm asked to look into it. But in this  
5 particular case, Randall informed me that he had checked on the zoning  
6 and he had spoken, I think, to Mr. Bass and he discussed his findings with  
7 him and relayed that to me, at that time.

8 MR. ELKAN: And did he use the term, "floating zoning"  
9 when he was talking about that with you?

10 MR. CALLICUTT: Yes, Sir, he did.

11 MS. REAVES: Can you clarify who "he"  
12 is? I'm sorry.

13 MR. CALICUTT: (No response)

14 MR. ELKAN: Did Mr. Baisden --- when he was discussing  
15 this with you, and as you just testified of his discussion with Mr. Bass, dd  
16 he use the term, "floating zoning", when he discussed it with him after he  
17 discussed it with Mr. Bass?

18 MR. CALLICUTT: Yes, Sir, he did use that term.

19 MR. ELKAN: Okay, And did you later have a discussion  
20 with --- did you later have a discussion with Mr. Bass regarding zoning on  
21 the property?

22 MR. CALLICUTT: Yes, Sir, I did, prior to the closing.

23 MR. ELKAN: And what was the --- can you relate to the  
24 Board, the substance of that discussion?

25 MR. CALLICUTT: I called and spoke with Mr. Bass, prior to



1 closing and told him that --- exactly what I told you-all, I generally don't  
2 get into the zoning, but my client I know is going to be running a scrap  
3 yard here and he used a term that I've never heard of in Randolph County.  
4 And he asked what, and I told him "floating zoning", and I said, "I've  
5 never heard of such a thing before." I said, "I just want to call and verify  
6 exactly what we have and if there's going to be any issue. I looked at the  
7 GIS and I'm not sure that you can rely on that 100% of the time, so I  
8 wanted to get it from the horse's mouth", is basically what I told him.

9 MR. ELKAN: And what did Mr. Bass tell you?

10 MR. CALLICUTT: From our conversation I --- I mentioned  
11 to him, I said, "I've never heard the term "floating zoning" before. I don't  
12 know if that's a Guilford County thing and I'm unaware of it, but I said,  
13 "does that, essentially, mean that the Heavy Industrial portion of the  
14 property is not defined?" and my understanding from that was, "Yes", that  
15 that is what it meant. And I said, "Well, Randall mentioned it to me and I  
16 was unclear on it and I wanted to call up, myself, and do some due  
17 diligence." And after speaking with Mr. Bass, I believed that --- again, I'm  
18 not sure exactly what "floating zoning" is, but my impression of our  
19 conversation was that the Heavy Industrial portion of the property was not  
20 fixed to any one (1) particular portion of the property. And I assumed  
21 that's what "floating" meant. .

22 MR. ELKAN: And did you relay that understanding to Mr.  
23 Baisden?

24 MR. CALLICUTT: I did. I told him, I said, "Well, you were  
25 right, Randall, I've never heard of it before, but apparently, it's such a

1 thing other places.” I said, “I’ve never heard of it in Randolph County, but-  
2 --” I said, “I spoke with Mr. Bass and it appears that there’s not a set  
3 portion of the property that is Heavy Industrial.” And he proceeded to then  
4 close on the property, thereafter.

5 MR. ELKAN: I have no further  
6 questions.

7

8 **CROSS EXAMINATION**

9

10 MS. REAVES: Mr. Callicutt, how you doing?

11 MR. CALLICUTT: I’m okay, how are you?

12 MS. REAVES: Good. Thanks for coming in tonight. I know  
13 it’s late.

14 MR. CALLICUTT: No problem.

15 MS. REAVES: Who did Mr. Bass identify himself as, when  
16 you spoke to him?

17 MR. CALLICUTT: He just said that he was Oliver Bass ---  
18 well, actually, I called and he answered the phone and said he was Oliver  
19 Bass with the Planning and Zoning Department.

20 MS. REAVES: Okay. And you said you don’t usually get  
21 into the zoning and land uses. Do you have experience in that area?

22 MR. CALLICUTT: I do have experience in it. I own about  
23 two hundred seventy-five (275) rental properties and things, myself, that I  
24 deal with. That’s kind of why I retired and manage, but generally, for  
25 clients, if they tell me the zoning works for them, I don’t check. But the

1 oddity in this case made me call.

2 MS. REAVES: Okay. And did you bother to check the  
3 Guilford County Unified Development Ordinance to look for “floating  
4 zoning” or “undefined” Heavy Industrial zoning?

5 MR. CALLICUTT: No, Ma’am. When I checked the GIS, I  
6 saw a portion of it was Heavy Industrial and based on my conversation  
7 with Mr. Bass and what was related to me by Mr. Baisden, I thought,  
8 “Well, that checks out. I guess it is as its been described to me.”

9 MS. REAVES: But you didn’t check the UDO, is that  
10 correct?

11 MR. CALLICUTT: Yes, Ma’am, that’s correct.

12 MS. REAVES: Okay. Thank you for answering my  
13 questions.

14 MS. REAVES: Those are my questions,  
15 Madam Chair.

16 MR. STANDLEY: So, you being an  
17 attorney, you’re being advised on “floating  
18 zoning” by people, are they attorneys?

19 MR. CALLICUTT: I’m sorry, I couldn’t  
20 hear you.

21 MR. STANDLEY: The people that you  
22 consulted, that you just told us about, and you’re  
23 an attorney. Are these people attorneys?

24 MR. CALLICUTT: No, Sir, not to my  
25 knowledge.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. STANDLEY: Who is the expert telling you that “floating zoning” exists and is real?

MR. CALICUTT: My conversation with Mr. Bass led me to believe that the boundaries were not defined. I assumed that “floating zoning” was a colloquialism to define this undefined portion of the property.

MR. STANDLEY: So, that’s only an assumption that you have made?

MR. CALLICUTT: Well, it was made to me by Planning and Zoning. I don’t know who better to ask about that.

MR. STANDLEY: Did Mr. Bass tell you anything about “floating zoning”?

MR. CALLICUTT: I said --- I said I turned to Mr. Bass that Randall had defined it to me as “floating zoning”. And I said, “My guess would be that that means a portion of this property, that’s Heavy Industrial, is not defined, and basically, that’s what I assumed that “floating zoning” meant.

MR. STANDLEY: Okay, so it is your assumption, then?

MR. CALLICUTT: Based on the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

information, yes, Sir.

MR. STANDLEY: Okay, thank you.

MR. JOHNSON: I have a question. Did you-all have a survey done when you-all made the purchase?

MR. CALICUTT: No, Sir, not to my knowledge.

MS. MILLER: Thank you.

MR. CALICUTT: Thank you, Ma'am.

MS. MILLER: Do we have other witnesses?

MR. MASON: Ma'am could we have a five (5) minute recess? Is that all right?

MS. MILLER: A five (5) minute recess has been requested and we will go ahead and take that now.

MR. BELL: To the Counsels, you do need to make a statement about Exparte communications in this instance.

MR. MASON: I'm sorry, yes.

MS. MILLER: Do you need to make a statement about Exparte now?

MR. MASON: Yes, I'll caution the Board that only the evidence that's presented in here, from the witnesses or the documentary evidence

1 that's been admitted, should form a part of your  
2 decision and you should wait to make your  
3 deliberations until after all of the evidence has  
4 been heard.

5 MR. ELKAN: Thank you, Mr. Mason.

6

7 (Thereupon, a short recess was taken beginning at 8:35 p.m. and  
8 ending at 8:50 o'clock p.m.)

9 MR. ELKAN: Madam Chair and Board, I  
10 have no further witnesses to put on for this  
11 Hearing tonight.

12 MS. MILLER: Thank you.

13 MS. REAVES: Madam Chair, as stated  
14 earlier, the County also has no further witnesses,  
15 just reserving time for a Closing.

16 MS. MILLER: Some clarification, Mr.  
17 Mason?.

18 (Thereupon, Mr. Mason spoke to the Chair and Board members  
19 away from the microphone)

20 MR. JOHNSON: Can we go into Closed  
21 Session? Can we? I don't know.

22 MS. MILLER: Is there anyone in the  
23 gallery tonight that wants to speak for or against,  
24 and when I say that, please understand that this is  
25 regarding personal knowledge of evidence, not

1 just your personal feelings about the matter, but  
2 evidence that is going to help the Board make a  
3 decision tonight.

4 UNKNOWN SPEAKER: I'm going to go.

5 MS. MILLER: All right, Sir. If you will,  
6 please, state your name and address for the  
7 record and then we'll swear you in.

8 MR. BECKUM: I am Joseph Craig  
9 Beckum.

10 COURT REPORTER: Please speak into  
11 the microphone.

12 MR. BECKUM: Oh, I'm sorry. I ain't  
13 used to all that. I am Joseph Craig Beckum. I am  
14 a ----

15 MR. MASON: Sir, would you sign in on  
16 that paper, please.

17 MS. MILLER: And. Mr. Beckum, as  
18 you're doing that, please state your address for  
19 the record, as well.

20 MR. BECKUM: My home address?

21 MS. MILLER: Whatever address you're  
22 comfortable with,

23 MR. BECKUM: Oh, 518 Worthfield Street, Randleman,  
24 North Carolina.

25 MS. MILLER: Thank you very much.

1 And do you swear or affirm to tell the  
2 truth, the whole truth and nothing but the truth?

3 MR. BECKUM: I do.

4 MS. MILLER: Thank you. Please  
5 proceed.

6 MR. BECKUM: So, I do grading, underground retentions,  
7 underground utility pods. I have since – officially, since 2001 for the State  
8 of North Carolina. Randall has hired me, we went in, we made sure  
9 nothing was leaving that property. We built retention systems, added extra  
10 seal vents, where there was no erosion, just to double insulate it. And  
11 we --- we --- I mean, he has spent a lot of money for something and the  
12 grade has not --- it don't reflect what it used to be. What he has changed,  
13 he's changed the whole elevation of the property, so everything's draining  
14 back --- you know, and even when he tears a car apart, it don't matter  
15 where it is, it's draining back to this system that's going in there. Nothing  
16 is leaving that property, at all. We've --- we've looked into it real  
17 seriously. There's --- and as far as equipment, the excavators --- that a farm  
18 equipment, you know what I mean? It's nothing ---- it's nothing out of the  
19 ordinary for a farm to have. So, he's done everything he can to assure this  
20 thing. I promise you. Okay.

21 MS. MILLER: Okay. Thank you  
22 very much. We appreciate it. If you would you  
23 please, state your name and address.

24 MR. ZIEGLER: Thomas K. Zeigler. I live  
25 at 107-A Mercy Road, and I'm a stakeholder.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. MILLER: Okay, and if you will, sign that piece of paper right there. Staff's pointing so we've got to make sure we do that. Okay, and just to confirm, you're speaking for or you're speaking against?

MR. ZIEGLER: Against.

S. MILLER: Okay, if you don't mind pausing for a moment, I want everyone that's speaking for, to have an opportunity to speak, and then we'll switch to against. So, let me just make sure. Is there anyone else that has personal knowledge evidence-based, that you would like to present to the Board as they make a decision tonight?

MR. MARTINSVILLE: I'd like to speak.

MS. MILLER: For?

MR. MARTINSVILLE: For.

S. MILLER: Okay, please come up. I'll call you back in just a moment, Sir. Will you please state your name and address for the record, please?

MR. MARTINSVILLE: My name is Mark Martinsville. 232 Harper Drive, Thomasville.

1 MS. MILLER: Okay, after you  
2 finish signing, we'll swear you in. Do you swear  
3 or affirm to tell the truth, the whole truth and  
4 nothing but the truth?

5 MR. MARTINSVILLE: I do.

6 MS. MILLER: Okay.

7 MR. MARTINSVILLE: Like I said, my name is Marcus  
8 Martinsville. I'm the owner of Cash for Autos. I've known Randall for  
9 some time and I've been in the metal recycling, as a vendor, bringing to  
10 recycling places for about fifteen (15) years. There's a limited places  
11 where you can take these vehicles or metal, ne (1) that we all know in this  
12 community s DH Griffith. One of the only ones, really in the area, unless  
13 you want to go to Lexington or whatever. Randall's been operating there  
14 for about two (2) years, and as you can see by the crowd here, his workers  
15 and different vendors that are here tonight, it's very detrimental that all of  
16 us have also invested in what he felt was his knowledgeable understanding  
17 of this property. And we've invested our men, our equipment, our time,  
18 our marketing, all into this area to support him and helping the community  
19 in this recycling venture. He pays much more than DH Griffith. DH  
20 Griffith has got a pretty hold on the community here in the scrap business.  
21 I called today to DH Griffith and they stated that they pay \$7.00 per 100  
22 pounds for cars and metal. Randall, I called him today and they're paying  
23 \$9.00. And that's the difference and that's why there's a big community  
24 here. Now, I understand --- I'm sixty (60) years old and I have enough  
25 understanding to know that a community might have some concerns. I

1 haven't heard anybody saying that they tested any kind of gas or problems  
2 that going on there. I've heard something about some noises, but the main  
3 point I want to make is, we don't make a whole lot money, and that  
4 difference in the competitive and trusting somebody in this market, like we  
5 do Randall, means a lot and he's --- and he's honored every step of the  
6 way. When he was getting closed down from Asheboro, when he decided  
7 to move to Guilford County and said, "Will you-all stick with me while I  
8 get everything?" And we stuck with him and we put our hardship and labor  
9 into it. I think, today, if this Board decides to close it down, you're not  
10 going --- it's going to hurt the community. There's incomes, families,  
11 children that's been here tonight that are being supported by this  
12 organization, by Cardinal Metals. I don't know what advantage the  
13 homeowners are going to have if they close it down. They haven't stated  
14 anything, as of yet, I've seen some of the evidence that's been presented  
15 here tonight, but there --- I mean, what's the big deal? I mean, obviously  
16 somebody --- and you've heard an attorney speak, you've heard that  
17 somebody has told them that it's okay to operate there. He spent hundreds  
18 of thousands of dollars --- do you think just to come in and say that, "We  
19 weren't approved.?" I've gotten building permits and different permits in  
20 the past and Zoning has to approve it, so he's been there for about two (2)  
21 years, and we have depended on him for our income, and I don't know the  
22 amount of families, I don't know how many vendors he gets a day, but  
23 there's quite a few. There's some vendors that have even been in there that  
24 are from the very community, that are complaining, because they're ---  
25 they're going to come over there and sell their junk car for --- they're not

1 going to go to \$7.00 per 100 pounds, so people that are here in the  
2 community that are affected with their AG zoning, are actually, bringing  
3 vehicles there, as well, and different things. I just --- I just wanted to  
4 address you-all and let you know that it really is going to devastate,  
5 financially, a big chunk of the Guilford County and Davidson and  
6 Randleman community, as far as the monies that we're able to keep  
7 making.

8 MS. MILLER: Thank you. I don't know  
9 about everyone else on the Board, I just want to  
10 say that I heard everything you said and I can  
11 understand the things that you're saying, but  
12 what you're saying doesn't address whether or  
13 not there was a violation, but please know that  
14 we heard everything that you just said.

15 MR. STANDLEY: Quick  
16 question, Sir. How many employees are there?

17 MR. MARTINSVILLE: Excuse  
18 me?

19 MR. STANDLEY: How many  
20 employees are there?

21 MR. MARTINSVILLE: Are there  
22 where? I don't work for them. I am a vendor. I  
23 go to the community and different shops and car  
24 lots who call me to get rid of their junk vehicles.  
25 Or a homeowner that's been fined for having for

1 having a junk car in their yard, and has to dispose  
2 of it somewhere, and the difference today would  
3 be, that I can give them \$100.00 if I take them to  
4 DH Griffith and I can give them \$150.00 if I was  
5 taking it to Randall. So it affects it that way.

6 MR. STANDLEY: Thank you, Sir.

7 MR. MARTINSVILLE: Any more  
8 questions?

9 MS. MILLER: Anything?

10 MR. JOHNSON: Huh-uh (negatively)  
11 I pass.

12 MS. MILLER: Thank you.

13 MR. NICHOLS: I'd like to say  
14 something.

15 MS. MILLER: For or against?

16 MR. NICHOLS: For.

17 MS. MILLER: For? Okay. Is this going  
18 to be Evidentiary?

19 MR. NICHOLS: What now?

20 MS. MILLER: Is this going to be  
21 Evidentiary to the property and the decision we  
22 have to make?

23 MR. NICHOLS: I mean, it's definitely  
24 just putting a word in to support them.

25 MS. MILLER: Okay.

1 MR. MASON: Madam Chair, we need to  
2 swear him in.

3 MS. MILLER: Okay. I need you to do a  
4 couple of things for me.

5 MR. NICHOLS: Yes, Ma'am.

6 MS. MILLER: State your name and  
7 address.

8 MR. NICHOLS: My name is Jonathan  
9 Nichol.

10 MS. MILLER: Thank you, Jonathan. And  
11 do you swear or affirm to tell the truth, the whole  
12 truth and nothing but the truth.

13 MR. NICHOLS: Absolutely.

14 MS. MILLER: Okay, again please keep it  
15 concise and regarding the property and the  
16 violation.

17 MR. STANDLEY: Get the address.

18 MS. MILLER: We didn't get the address?

19 MR. STANDLEY: No.

20 MR. MILLER: Jonathan, will you state  
21 your address, please?

22 MR. NCHOLS: 782 Jolly Road,  
23 Lexington, North Carolina.

24 MR. NICHOL: So, my name is Jonathan Nichols and I want  
25 to thank you for allowing me to speak. I'm here to support Cardinal

1 Metals. I've been in the recycling business for myself since I was nineteen  
2 (19) years old. I got my start in the business working with my family. My  
3 grandfather taught me all he knew about the scrap --- scrap business. By  
4 the time I could use a hammer and turn a screwdriver, my Pops had me in  
5 the back yard breaking down radiators. It was through this experience that  
6 recycling metal became my way of life, and not only for my family these  
7 past twenty plus (20+) years, but for Randall's family and for many of our  
8 vendors. Some of our vendors are regulars who make selling metal as a  
9 way of life for their families and then you have others you will see  
10 occasionally, who are out to make extra money to help cover some  
11 unexpected expenses. In recycling business you meet all types of people.  
12 You've got those who don't know where their next meal is coming from,  
13 to those who make enough from scrapping metal that they are living a  
14 comfortable, middle to upper class life, No matter what financial  
15 background a person lives in, each person is trying to get the best price for  
16 their efforts, which is why Cardinal Metals has succeeded in building its  
17 clientele and bringing revenue into Greensboro, mostly through word-of-  
18 mouth. I've known Randall Baisden, Cardinal Metals owner, for twenty-  
19 three (23) years. During our years together, we have gained much  
20 knowledge in the business and of all the things we learned, the most  
21 critical is to make sure that land is up to Code, so that we can operate a  
22 legal establishment. In the past, we've had to learn the proper steps the  
23 hard way. Our past mistakes have cost a great deal of time and money.  
24 These kinds of errors could cause you to have to close the doors. That is  
25 why it is imperative when it came to purchasing the property at 5149

1 Randleman Road, in Greensboro, that it be done properly. Since Cardinal  
2 Metals purchased the property in January 2022, Randall has not only put  
3 all he had into purchasing the property, but he's reconstructed the property  
4 to meet all environmental protocols and taken the steps necessary to follow  
5 all rules regulated by the State of North Carolina. And if allowed to  
6 continue business, he will continue to make more improvements and  
7 resources to come in. In the event Cardinal Metals is forced to shut down,  
8 that will be the end of Cardinal Metals. You would not only be closing a  
9 business, you will be closing the doors on my family, Brandon's family,  
10 the families of the employees that it takes to run the yard; the drivers that  
11 haul our metal and the hurting families of Cardinal's customers, who have  
12 come to rely on Cardinal to pay them the best possible price for their  
13 effort. You know, it just --- my man would have never --- Randall would  
14 have never put forth the effort without getting the word --- without being  
15 told and going for it. And as far as the technicalities and the paperwork and  
16 all that, I get it, but the fact is, he was told, He would never put everything  
17 up --- like, the man put everything up --- he put everything on the line and  
18 that's what's real. And we are all one (1) family in here, you know, and  
19 when it comes time to make a decision, please take all that into  
20 consideration. He was led to believe --- and that's what it comes down to. I  
21 appreciate it.

22 MS. MILLER: Thank you, Jonathan. We  
23 appreciate your testimony.

24 Okay, we need to really make it quick, and  
25 please, please, please --- evidence.



1 Please state your name and address.

2 After the gentleman testifies for, we will  
3 hear those against, so that we can wrap things up.

4 Please state your name and address.

5 MR. GLASGOW: Good evening,  
6 my name is Albert Glasgow, 1427 Vine Street,  
7 Greensboro, North Carolina.

8 MS. MILLER: And do you swear  
9 or affirm to tell the truth, the whole truth and  
10 nothing but the truth?

11 MR. GLASGOW: I do.

12 MR. GLASGOW: Well, ever since I've been scrapping ---  
13 I've been scrapping for about two (2) years now, I've worked in  
14 construction for twenty-two (22) years, I'm a retired brick mason, so I do  
15 this on the side, and ever since I've been going to Cardinal Metals,  
16 Randall's --- he's been closed a few times for violations, but everything  
17 they tell him to do, he does. They told him to build a pit, concrete, he built  
18 it. I was in construction in concrete and I know that cost him quite a bit of  
19 change. The pit that he was referring to, he did that, somebody went and  
20 sabotaged it and he fixed it back. That cost him money. So, everything that  
21 he's asked to do, he does. He looks like a big, redneck, but he doesn't see  
22 color. We're all one (1) big family and we go to him and he treats  
23 everybody the same. And I would love for him to stay open, because he's  
24 putting food on my table, feeds my kids and helps everybody that he  
25 knows. And that's all I have to say.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. MILLER: Thank you, Sir.

For those that want to speak against, and Sir, I believe Mr. Ziegler was going to speak against earlier, so I would like for him to come up first.

MR. ZIEGLER: It's for. I'll stay on the subject, don't worry. I understand.

MS. MILLER: Okay, last person speaking for tonight, no one else. We can cut off the mic for sure.

Sir, if you will, please state your name and address for the record.

MR. MEEKS: Brian Meeks, 1962  
Whispering Pines Road, Danville, Virginia

MS. MILLER: Perfect, and do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

MR. MEEKS: Yes.

MS. MILLER: Okay.

MR. MEEKS: I purchase from Randall, so this is coming from a few different perspectives, I travel --- what I do is, I buy from scrap yards. I've got an exporting business in Danville, Virginia where we export out. I travel from yards, to yards, to yards, scrap yards, meaning not just longs. I go to different scrap yards up and down the east coast. I've been doing business with Randall for five (5) years now, give or take. I've been to his yard several times, been to his other yard several times. From my

1 experience in dealing with other yards, I've seen a lot of yards, not do what  
2 they're supposed to do. Dumping oil on the ground, antifreeze, gas pouring  
3 on the ground. This yard doesn't do that. He sells this stuff so why would  
4 he put it on the ground? It wouldn't make sense, financially it wouldn't  
5 make sense for laws and legalities, as well. This man does make sure that,  
6 as far as harmful liquids being put into the ground or for harm for other  
7 residents in the area, he makes sure that it's taken care of. I've noticed it  
8 myself. I've watched him change the whole property, literally, from  
9 something that was nothing, to something. He put gravel in, put everything  
10 into place just like he should. Spent like --- everybody can vouch for, spent  
11 a pile of money on this yard to make sure that he makes everyone happy in  
12 the area and makes sure that it doesn't cause red flags. Like I said, his  
13 place is definitely in the spectrum of other yards, phenomenal. He takes a  
14 lot of pride in what he does, he takes care of his place and he makes sure  
15 things are taken care of like he's supposed to. I understand that the  
16 property might not be zoned --- the back part of it, might be zoned AG, is  
17 that right? And the front's zoned Heavy Industrial, HI, but that's not going  
18 to stop him from doing business. These people can complain and complain  
19 and complain about loud noise or this, that and the other, car crushing, but  
20 the fact of the matter is, they're still zoning HI and he can still do a  
21 business and it might not be as big, it might be a little bit smaller, but he  
22 can still make the same noise, he can still do whatever he wants to, it's not  
23 against the law for him to conduct business on the front half of that  
24 property. Whether or not he does it or not, that's up to him, but it's not  
25 going to change anything for residents around him. He can continue and he

1 can crank the loader up every day of the week, seven (7) days a week as far  
2 as that goes, it's not against the law. He can smash cars, he can do  
3 whatever he wants to on the front half. So, it's not going to extinguish  
4 anything that's going on, t could amplify it, if it needed to be, but like I  
5 said, the man does everything he needs to. I'll vouch for it, I've watched it,  
6 he's followed every single time that someone has come in there. When he  
7 moved the yards, I ask him, point blank, I said, "Did you make sure that  
8 you talked to them about the zoning?" He said, "Yes. the man said,  
9 verbatim, "floating zoning", period. Okay? That's all I've got. Thank you.

10 MS. MILLER: Thank you very much for  
11 your testimony. We appreciate it. Okay, now we  
12 will allow for rebuttal. Mr. Zegler. Is there  
13 anyone else that wants to speak against, one (1);  
14 two (2); three (3); four (4); five (5), against.  
15 Okay. I want to reiterate, we're hearing a lot  
16 tonight about this property. We're addressing  
17 whether or not there's a violation going past the  
18 HI into the AG. That's it. We're not questioning  
19 anything else tonight. So, if you could address  
20 that part, that would be wonderful.

21 MR. ZIEGLER: Are you talking to me?

22 MS. MILLER: Yes, Sir. And anyone else  
23 tonight that wants to speak against. So, we have  
24 to start, if you would, again, I'm so sorry,  
25 Mr. Ziegler, and you did this once, but will you

1 please state your name and address?

2 MR. ZIEGLER: Thomas K.  
3 Ziegler.

4 MS. MILLER: Thank you.

5 MR. ZIEGLER: 107-A Mercy Road, it's  
6 in Greensboro 27406.

7 MS. MILLER: Thank you. Yes, Sir.

8 MR. ZIEGLER: I'm a stakeholder.

9 MS. MILLER: And do you  
10 swear or affirm to tell the truth, the whole truth  
11 and nothing but the truth.

12 MR. ZIEGLER: I do.

13 MS. MILLER: Thank you. Please  
14 proceed.

15 MR. ZIEGLER: Okay, I know nobody's addressed it, this is  
16 the Unified Development Ordinances for Scrap Metal.

17 COURT REPORTER: Please  
18 speak into the microphone.

19 MR. ZIEGLER: Sorry. I'm kind of new at  
20 this.

21 MR. ZIEGLER: And I'd like to give --- have you ever seen  
22 this?

23 MS. MILLER: Yes, we've seen it, yes.

24 MR. ZIEGLER: So, you don't have to look  
25 at it? Should I mention what he doesn't have?

1 He doesn't have the planting yards. This is a  
2 requirement.

3 MS. MILLER: Mr. Ziegler, please  
4 proceed with your rebuttal.

5 MR. ZEGLER: Should I talk about that?  
6 And he doesn't have the minimum of five (5)  
7 acres, which is the minimum. He only has 4.91  
8 acres and he's trying to rezone only part of that  
9 property. So, he's keeping the house, the  
10 minimum --- I assume, the minimum size, so he  
11 might only have four (4) acres. The minimum  
12 requirement here is five (5) acres. And let's  
13 see --- I had noise issues. There were noise  
14 issues --- I never called up about the noise,  
15 because I didn't think the Police, the Sheriffs or  
16 whoever they call, they never do anything,  
17 anyway. But I want to know is, can I show  
18 videos of my house and what it sounds like.

19 MS. MILLER: No, Sir.

20 MR. ZIEGLER: I can't do that? For the  
21 noise?

22 MS. MILLER: No, Sir.

23 MR. JOHNSON: Not necessary.

24 MR. ZIEGLER: How about --- I said --- he's been kicked out  
25 of other places for zoning violations for his business. He's been kicked

1 out of Ramsuer. DB Scrap----

2 UNKNOWN SPEAKER: That's not true.

3 MR. ZIEGLER: --- Well, you work there.  
4 She --- and he did, too and it was owned by  
5 Cardinal Metals. I don't know if you want to  
6 look at this?

7 MS. MILLER: No, Sir.

8 MR. ZIEGLER: That's it?

9 MS. MILLER: Thank you very  
10 much, Mr. Ziegler. Will the next person that  
11 wants to speak against, come up to the  
12 microphone? Please state your name and address.

13 MR. WELBORN: My name is  
14 Tony Welborn. I live at 5139 Randleman Road,  
15 which is just across the yard from where this  
16 company is.

17 MS. MILLER: Do swear or affirm  
18 to tell the truth, the whole truth and nothing but  
19 the truth?

20 MR. WELBORN: Yes, I do.

21 MS. MILLER: Please stick with  
22 the evidence.

23 MR. WELBORN: I will.

24 MR. WELBORN: To stick with the evidence, I've heard a lot  
25 tonight about zoning and all of these types of things, the numbers and how

1 much acreage he has, that type of thing, and that's understandable, that's  
2 important information, but I want to talk to you about living next door to  
3 this place. I hear it all day long, seven (7) days a week, in some instances,  
4 from 7:00 in the morning, 'til 7:00 at night. I live there. Now, everybody's  
5 talked about---

6 MS. MILLER: Sir. I'm sorry to cut  
7 you off ----

8 (Thereupon, there was a speaker from the audience that  
9 was not speaking into a microphone (inaudible))

10 MR. BAISDEN: The hours are from 8:00  
11 to 4:30, we work during the daytime---

12 MS. MILLER: If there is anyone  
13 else that has a concern about the noise, please  
14 know that the Board has been given Police  
15 records in regard to that, so that does not need to  
16 be addressed tonight. But thank you.

17 MR. BAISDEN: Can I ask a question?

18 MR. MASON: No.

19 MR. WELBORN: Well, I wasn't  
20 addressing it, you said you wanted people who  
21 have knowledge of the problem. I'm talking  
22 about the problem.

23 MR. WELBORN: Just like everybody's been talking about  
24 the money he's invested and all that, has anyone considered how much  
25 money all of the property owners around there have invested over the



1 years? I've been there for thirty (30) years. I've invested a lot of money in  
2 my home. Certainly, more than he's put in his property. Okay. So, my thing  
3 is, these are things that the Board should consider. I know you have the  
4 legal part about zoning and that type of thing, but we live there. All these  
5 people that have been coming up testifying from Virginia, Lexington,  
6 Ramseur, or wherever else they were from, they don't live there, so they  
7 can ---- and you know, I'm not saying there's anything wrong with the  
8 man having a business, I've used DH Griffith before, but he's not located  
9 in the middle of people's neighborhood, and this guy decided to----

10 (Thereupon, there was an unknown speaker from the audience that  
11 was not speaking into a microphone (inaudible) also shouting)

12 MS. MILLER: Let's let the gentleman  
13 continue his testimony.

14 MR. WELBORN: Thank you. I  
15 didn't say anything when they were talking.

16 MR. WELBORN: As I said, the man decided to buy a piece  
17 of property and put a junk yard in the middle of a neighborhood, where  
18 people live. He cared nothing about our property values, he cared nothing  
19 about how much money we had invested, but they want us to feel like we  
20 should be concerned about how much money he's lost, because he put a  
21 business in the middle of a neighborhood. He makes noise. I can hear this  
22 noise in my house with the doors closed in the wintertime. How can we  
23 ever --- we can't do any entertaining in our yards or anything like that,  
24 because --- I can look through the trees right there and see all these big  
25 machines and it looks like a Transformer's movie over there or something,

1 they're moving so much stuff around. They drop big pieces of metal down  
2 on the ground or whatever --- from whatever height, I don't know what it  
3 is, but I do know this, I haven't heard stuff like this since I was in the war.  
4 Some of this stuff is that loud. So, I think he needs to go. He needs to  
5 move his business. I don't care, I'm not saying put him out of business, but  
6 he needs to move it out of our neighborhood---

7 (Thereupon, there was an unknown speaker from the audience that  
8 was not speaking into a microphone (inaudible))

9 MR. WELBORN: ---because he put it in our neighborhood,  
10 and he had no consideration for us when he did that. Thank you.

11 MS. MILLER: Thank you very much.

12 MR. ELKAN: Madam Chair, if I may,  
13 just --- I want to be respectful to the gentleman  
14 testifying, but I would object to the Board's  
15 consideration of testimony--- Madam Chair, I'm  
16 sorry. I just wanted, for the record, to object to  
17 the Board's consideration of irrelevant testimony.

18 MR. MASON: Madam Chair,  
19 (Thereupon, there was an unknown speaker from the audience that  
20 was not speaking into a microphone (inaudible))

21 MS. MILLER: I'm sorry. Unless you have  
22 been sworn in, please refrain from making  
23 remarks. At this time, I would like to call our  
24 County Attorney up to remind everyone why  
25 they are here this evening.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. WELBORN: I have signed the paper.

MS. MILLER: Just a moment, please.

MR. MASON: Thank you, Madam Chair.

And to be clear, as she has stated earlier this evening and on more than one (1) occasion, the only issue that this Board is able to address is the zoning issue. And that is why she was letting folks who have personal knowledge that is relevant to that decision that this Board has to provide, they can come forward, whether they are in support of or against this Appeal. That's the issue, and I would advise this Board openly, and I think this Board is already there, that whether you might like this business or not like this business being there, noise issues, which aren't tied to the zoning issue that this Board is considering, those are not --- those are not issues that they can decide tonight, for better or worse.

MS. MILLER: All right. If you will, please state your name and address?

MS. WELBORN: My name is Annie Welborn. I live at 5139 Randleman Road.

MS. MILLER: Thank you. Do you swear or affirm to tell the truth, the whole truth and nothing but the truth?

1 MS. WELBORN: Yes.

2 MS. MILLER: And you've already signed  
3 the paper?

4 MS. WELBORN: Yes.

5 MS. MILLER: Okay, thank you. Go right  
6 ahead.

7 MS. WELBORN: I want to speak to this from a different  
8 perspectives. And all the smart comments are unnecessary. Even I have  
9 made unnecessary comments----

10 MS. MILLER: Ma'am, please  
11 address the Board.

12 MS. WELBORN: This gentleman, who represents this family  
13 came to our door, on our property, and talked to us and told us what they  
14 was going to do. And we were --- okay, the man was trying to start a  
15 business, we respect that. No issue. But we thought they would adhere to  
16 what we were told when he --- when the person came on our property and  
17 talked to us. He told us he put his whole life savings into it. That's all well  
18 and good. I appreciate a hard-working man. We put our life savings into  
19 our home and in remodeling our home. The smell, I'm an outdoors person,  
20 I grow gardens, I grow raised beds, I grow vegetables on my deck. I cannot  
21 even enjoy that. Keep in mind I really have no issues with the business, if  
22 he would just give us a little bit of peace and quiet every now and then.  
23 The company that was there before, did not make noise from sunrise and  
24 past sunset, seven (7) days a week. A lot of people may disagree with me,  
25 but I really have no issue with a person trying to earn a honest living. But

1 start it right. I grew up on a farm in Person County, North Carolina, five  
2 (5) brothers and a military Daddy and a Momma that didn't play. I'm the  
3 only girl. I have no problem with hard work, none, whatsoever. But let's  
4 do it legitimately. Let's get it zoned first, let's get it surveyed, let's get it  
5 taken care of, and show some concern about the people that live there.  
6 Nobody's trying to put anybody out of business or out of work. I've  
7 worked my entire life, probably the same way you-all have. I've done  
8 some hard work. I've done some soft work. I have nothing against you as a  
9 business and as a person. But I will not tolerate and will not adhere to the  
10 mess that's being told today, because it's not fair. All we need to do is be  
11 fair and go by the book. When I bought our property out there, we had it  
12 surveyed, okay. We knew what we could do and what we couldn't do. I  
13 want, please, just a little bit. I looked it up on line and it said, "8:30 to  
14 4:30", I go to work in the morning at 5:30 in the morning, I come home, I  
15 go outside, I work, I go to the church garden and work, I work outside  
16 again. I can smell stuff in the air, okay. I know what comes with that  
17 territory, I know what comes with that kind of work. But we have to be fair  
18 all around. I could not go buy my house without having a land survey, I  
19 can't go --- I had a Generac installed. Do you know how many inspections  
20 we had to go through for that? By the book. By the book. That's all we're  
21 asking for, is by the book. If you're containing run-off properly, that's  
22 great, if you're not containing it properly, it needs to be addressed by a  
23 professional, not by opinions. It needs to be reassured to the community  
24 that we can get some kind of peace and quiet every now and then.

25 MS. MILLER: Ma'am, I think

1 that's something that the neighbors will need to  
2 address with the business, directly, but we've  
3 heard the items that you've shared tonight, that  
4 are a part of what decision we need to make, in  
5 regard to the violation. Thank you.

6 MS. WELBORN: Okay.

7 MS. SEAGRAVES: Hi, Tammera  
8 Seagraves, 5133 Redwood Road. I back up to  
9 their property.

10 MS. MILLER: Okay. That's great. This is  
11 going to be the last testimony against. The  
12 gentleman in the blue shirt will be the last  
13 testimony against. Do you swear or affirm to tell  
14 the truth, the whole truth and nothing but the  
15 truth?

16 MS. SEAGRAVES: Yes, Ma'am, I  
17 affirm.

18 MS. MILLER: Can you do me a  
19 favor and stick to the matter at hand, which is the  
20 zoning issue and the fact that there's  
21 encroachment upon AG.

22 MS. SEAGRAVE: Yes, Ma'am.

23 MS. MILLER: Please proceed.

24 MR. CALLOWAY: Ma'am, I think you  
25 need to turn on the microphone.

1 MS. REAVES: It's the top button. Just  
2 push it up.

3 MS. SEAGRAVES: So, anyway, I back up to their property  
4 and that would be that northeast corner, and yes, they have cleaned it up  
5 now, but they have shoved that over --- over where it comes onto my  
6 property, and a creek runs back there and I have pictures that I took  
7 yesterday and you can see the oil in the creek. And you can see the rust in  
8 the creek and it's coming from this direction (indicating) because the creek  
9 runs this way (indicating) and it runs down to Polecat Creek. So, that's  
10 contaminating all the water down there for the animals and contaminating  
11 our land. I don't care that he has a business, I put up with the Medley's for  
12 years, and you know, they made noise every now and again, but you know,  
13 I know that's not the Ordinance, but they make it all the time. I mean, I  
14 can't do anything in my yard. I can't have this conversation in my yard,  
15 because I have to yell all the time. That's pretty much what I've got to say.

16 MS. MILLER: Thank you for  
17 your testimony. I'm not sure who was first.

18 MS. SEAGRAVES: I'm going to leave  
19 that so they can see them.

20 MR. ELKAN: And Madam Chair, I would  
21 object to the consideration of the testimony as to  
22 contamination and contaminants in the creek  
23 with a lack of foundation.

24 MS. SEAGRAVES: Would you like to  
25 see the pictures, Sir?

1 MS. MILLER: Sustained.

2 MS. REAVES: Object.

3 MS. MILLER: After you sign in, please  
4 state your name and address.

5 MR. BASS: Steven Bass, 5001  
6 Randleman Road.

7 MS. MILLER: Do you swear or affirm to  
8 tell the truth, the whole truth and nothing but the  
9 truth?

10 MR. BASS: Yes, Ma'am.

11 MS. MILLER: Please proceed.

12 MR. BASS: Madam Speaker, Councilmen, advisors, we  
13 appreciate you-all hearing us today. I have done the research and according  
14 to UNC Government Division, a "floating zoning" is to a specialized  
15 zoning district that is defined is an Ordinance, but not applied until a  
16 landowner petitions to rezone their property. "Floating zones" are used in  
17 many Ordinances and they are defining the text of the Ordinance, but not  
18 applied on the ground until a landowner petitions to rezone their property.  
19 Meaning that no "floating zone" would have been more or less, denoted. It  
20 would have to be denoted by the County on the zoning map. Also,  
21 according to EPA standards, a ---- what they call "EOL", or End of Life  
22 vehicle facility must contain no less than five-point-zero-zero (5.00) acres  
23 and all stored fluids must be stored in an approved and sealed container at  
24 time of acceptance. That's all I have to say. Thank you, Ma'am.

25 MS. MILLER: Thank you



1 very much for your testimony. If you will, please  
2 sign the paper there and then state your name and  
3 address for the record?

4 MR. ELKAN: Madam Chair, I just ---for  
5 the record, objecting to the consideration of the  
6 testimony as lack of foundation.

7 MS. MILLER: Sustained. Please state  
8 your name and address,

9 MS. WARREN: Susan Warren, 6905  
10 Woodhue Drive.

11 MS. MILLER: Thank you. Do you swear  
12 or affirm to tell the truth, the whole truth and  
13 nothing but the truth?

14 MS. WARREN: I do.

15 MS. MILLER: Thank you very much.  
16 Please proceed.

17 MS. WARREN: Thank you. I have lived around there since  
18 1955, when I was born. Davis Mill Road is named after my family, it's a  
19 180 acre farm. I'm with Tammy Seagraves, all of that land where the car  
20 crushing company is, the water, whenever it runs off, it runs into the pond  
21 that's on the farm, which runs into Polecat Creek, which runs through the  
22 farm, which runs into the Randleman Watershed. So, you're talking about  
23 a lot of people's water they drink. I don't know, but I was told by  
24 somebody from the Guilford County Planning and Zoning, that the County  
25 would come out and test everybody's water and make sure that it was safe.

1 I have the name of a young man who, whenever this first started, when  
2 they first moved in, and I called downtown and called downtown just about  
3 every day, because I'm like all the rest, and you-all don't want to hear that  
4 word, "noise", but I'm going to say it. So, that's it, but this man was sent.  
5 He was an Inspector from Environmental Health and he went to the car  
6 crushing place and he --- I saw him --- he had my number, too, he was  
7 coming to my house to check the water and the pond and stuff, and he said  
8 that he was not allowed to take pictures there whenever he was there  
9 because there were buckets and barrels of fluid. Some had gas, some had  
10 oil, some had transmission fluid. Some had brake fluid. None of them ---  
11 all different sizes --- none of them had lids on them. So, it wasn't long after  
12 that until a whole lot of gravel showed up on that. So, EPA was contacted.  
13 If you call EPA in Raleigh, from Raleigh – from Burlington to Greensboro,  
14 EPA comes out of Winston-Salem. So, anyway, the first man that came out  
15 there was wounded, had a bandage on --- a big brace on his knee, so they  
16 sent another guy. But yes, there was stuff that looked just like oil and gas  
17 all over the whole lake, just about --- I mean, the pond, and it's almost 2  
18 acres and it was on the --- where the little stream is, where the water feeds  
19 one of the feeders that feeds into the pond. So, anyway, with that being  
20 said, there is a water issue. We have people in the neighborhood who are  
21 senior citizens, we have people that have new babies, it's a good mix of  
22 everybody in the community. Everybody's concerned. I think you ought to  
23 be able to tell that by how many people showed up tonight to see what is  
24 happening here. I've lived there since 1955. So, anyway, to say the least,  
25 I'm almost antique material, but there is no way all of that --- I think there

1 are three (3), the last time I counted --- of these car crushing machines that  
2 are really like excavators, that all of that equipment and that building that  
3 is on that .96 acres of land, that's designated HI, that can be --- you can't  
4 put all of that stuff on that property. It all won't fit, he's got too much of it.  
5 So, other than that, why would anybody buy a property and not have it  
6 surveyed? I mean, how old are we? We're not teenagers, really, there is  
7 protocol and you have to follow it. And if you don't, you pay the penalty  
8 for what it is. So, anyway, going up the road one day, there are car parts  
9 usually in neighbor's yards that have to pick it up before they can mow  
10 their yards, there's glass all over the road.. One day I was going up South  
11 Elm Street following a tractor trailer truck that just left there, that was  
12 headed to get on Highway 73. Car parts were flying off the top of the  
13 vehicle. It was not covered, I picked up the phone, I called 9-1-1 and asked  
14 for the State Patrol and this is what the State Patrolman told me, "That's  
15 not our concern." I said, "It will be your concern when you have to go to  
16 my house and tell my children that I just got killed because of parts flying  
17 off a truck that wasn't covered." So, that's another food for thought, taking  
18 it from a different aspect. So --- but no, sometimes if you don't get a  
19 survey, I don't care who you are, you're making a mistake. You learn from  
20 your lessons and there is not five (5) acres of land there. I've known where  
21 that place was, I knew the people who lived there before Mr. Medley. Mr.  
22 Medley didn't cause a whole lot of noise other than shooting guns on  
23 Saturday nights when everybody was drunk and all you had to do was call  
24 the law and the Sheriff's would go calm them down and they knew exactly  
25 where the noise was coming from. But this is --- I mean, it's like they said

1 awhile ago, all the time.

2 MS. MILLER: Thank you for  
3 your testimony. We appreciate it.

4 MS. WARREN: Thank you.

5 MR. ELKAN: Madam Chair, for  
6 the record, I object to the Board's consideration  
7 and testimony, lack of foundation. More  
8 prejudicial than probative. Irrelevant.

9 MS. MILLER: Sustained.

10 MR. BAISDEN: Also, for the record, I  
11 don't own trucks, I don't have any trucks.

12 MS. MILLER: Can we close the Public  
13 Hearing?

14 MR. MASON: I would suggest --- yes,  
15 you can close it.

16 MS. MILLER: All right. That concludes  
17 the Public Hearing and now the Board will  
18 deliberate.

19 MR. MASON: Would you like to do a  
20 brief Closed Session?

21 MR. ELKAN: Do we have an opportunity  
22 to close, or no?

23 MR. MASON: Yes.

24 MR. ELKAN: Closing arguments?

25 MS. REAVES: Matt, can we do our

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Closings?

MR. MASON: Yes.

MR. ELKAN: Okay.

MR. JOHNSON: Did you say there was a room, somewhere down there?

MS. MILLER: I'd love to. Do we need to make a motion on that?

MR. MASON: Yeah, apologies, since you've closed the Public Hearing, you should allow both sides to make Closing Arguments.

MS. MILLER: Do you want me to open it again?

MR. MASON: No. No, it's not evidence at this point.

MS. MILLER: Okay, got it.

MS. REAVES: I'm going to let you go last. I won't waive Opening on you.

MR. MASON: As long as it is Arguments and not evidence.

MS. MILLER: Just for everyone that is --- sorry --- for everyone in the gallery, we are now hearing Closing Arguments.

-----

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CLOSING ARGUMENTS - COUNTY**

MS. REAVES: Madam Chair and Board, you got to hear both sides tonight. The County side --- you actually got to hear three (3) sides, the Appellant side and you got to hear the Public side. Thank you guys so much for letting the public weigh in. I know it wasn't necessarily on topic, but you got to hear the surrounding community and also people that are supporting this business. But here's the brass tacks ---- please don't do that in the background while I'm doing my closing. Thank you.

Here's the brass tacks, Guilford County is responsible, under Article 2 of our Ordinance, Section 15. Our Planning Director has the duty to administer and enforce our UDO. In addition to that, under those powers of duties and the case law and the Ordinance was provided to the Board and also to Counsel in your packet behind the Exhibits, in that power and duty the Planning Director gets to make all final decisions and interpretations and definitions of our UDO. And that is exactly what has happened here. Our Planning Director has determined that there was a violation of the Guilford County UDO. Not for noise, not for contamination, but for going outside of the HI boundaries that were established in 1970, whether t was 4.9 acres or 10.2 acres, it was approved by Guilford County for HI, but within the confines of those metes and bounds. It doesn't matter what it looks like on the GIS, it just matters that its outside those metes and bounds. What does it mean for this Board? Well, I think part of that --- part of that burden that is shifting to the Appellant, is testimony that there was no survey done. That's what the attorney said, that's what a closing

1 attorney said. That's a problem because not only do you have the outside  
2 boundaries of that property, you have an interior boundary of that property.  
3 And there is a duty of a purchaser to verify what they're purchasing and to  
4 verify the use. It doesn't matter if they talked to Oliver Bass, or Boliver  
5 Gas or whoever, on the phone. Oliver Bass does not bind the County. What  
6 binds this County and what binds the public is that written UDO. That's it  
7 and that's all. And we had a closing attorney that said he doesn't really do  
8 it, he owns some rental properties, that's not the same thing as HI, and it  
9 has nothing to do with split-zoned properties. It has nothing to do with  
10 going into an Ordinance and making sure that whatever "floating zone"  
11 term that you thought was there, that it's there, not appearing, but your  
12 customer is bound by that.

13 In the "floating zoning" argument, you heard one of the guys to  
14 come up, Mr. Bass, still a part of the research that I did, if you look in your  
15 packet, when you get time, you can do it in Closed Session, the Ordinance  
16 I just referenced is CL1, Case Law 1, the conditional "floating" from the  
17 NC School of Government, they discussed and it's listed as DL 2 in your  
18 packet. That conditional floating --- I mean, that "floating zoning" is  
19 Conditional Use – Conditional Zoning. That's where that comes from. And  
20 it can't be done by oral representation, it must be done by written  
21 application of the owner. That's it and that's all. So, saying that someone  
22 told me I could do it, that's a staff member that can't bind the County,  
23 when the UDO is public and the processes and information for Conditional  
24 Special Use Zoning are there, it's not a defense to operating outside the  
25 metes and bounds. Metes and bounds are solid.

1 As to the 2<sup>nd</sup> defense of continuation, taken by it's plain meaning, a  
2 prior conforming use, the testimony from the Appellant side is that it was  
3 diesel engine repair. I didn't hear any testimony about a current continuing  
4 use of diesel repair. That also, is not a defense to operating outside the  
5 solid metes and bounds that were established in 1970.

6 The 3rd defense was conforming use. How many of you guys have  
7 looked at this Permitted Use Matrix over and over and over again in your  
8 roles, and if you will just look through there and look at the AG portion for  
9 waste sites, or where you have your junk and your salvage yards, or you  
10 look at the recycling for outdoors. You see that "P" the right to use it for  
11 that in HI, you don't see it in AG. Do you know why? N your packet you  
12 will see a case called Dobo V. Zoning Board of Adjustment. It was heard  
13 in the Court of Appeals, that got reversed by our Supreme Court. It's a  
14 2003 case. I heard arguments about, "well, you have track hoes, and you  
15 have farming equipment", but guess what? That's not enough. If you read  
16 this Dobo case, the Supreme Court said, "It has to be customary, incidental  
17 and primary use of land." I didn't hear any testimony today about  
18 Agricultural conduct on that land. The presence of a tractor or a track hoe,  
19 excavator, or things that might be used in farming is not enough to say that  
20 it can be used for Heavy Industrial. As a matter of fact, let me get to my  
21 page here, because they have a really good quote in here. Our Supreme  
22 Court overturned the Court of Appeals, based on a property that was  
23 operating customarily, incidental and subordinate to the primary residential  
24 use of the property. It was about a sawmill and a buyer was building a  
25 woodshop at the back of his house with the wood off of his own land,



1 using the sawmill. Customarily, incidental. And he would occasionally do  
2 some work, not for pay, for his friends. And the Supreme Court overturned  
3 and said, “That is irrespective of any potential use of the saw. What  
4 mattered was the actual use of the equipment.” So, it doesn’t matter if you  
5 have a farm tractor, if you’re not using it for farming, it’s not the potential  
6 use, it’s what you’re actually using it for. So, the conforming use argument  
7 fails. Now, you also heard how cooperative Mr. Baisden has been, and he  
8 has. He's been responsive, and I think he got, maybe, in over his head. I  
9 hate that he didn’t get a survey, but it’s not my job to argue about his  
10 cooperativeness. I do ask that the Board recognize that. My job is to make  
11 sure that this Board has the information from its Planning Director that  
12 validates the Notice of Violation that was issued December 20<sup>th</sup> of 2022,  
13 and to provide you with the Case Law and our Ordinances that back that  
14 up. And we have done that today. You have the evidence and the testimony  
15 and you have the Case Law to back it up and some of you have the  
16 background, when it comes to these type of violations. So, it is the  
17 Planning Department’s position that the Board should affirm it’s Notice of  
18 Violation and allow the County to move forward with enforcing that, or in  
19 the event that they can work something out with the owner, to postpone  
20 that. If the Planning Director decides to do that to allow that Application to  
21 go through, but I think, right now, where we are is that the Board is in a  
22 position where it has to affirm the NOV. Thank you so much for your time.

23  
24

**CLOSING ARGUMENTS – APPELLANT**

1 MR. ELKAN: Madam Chair, Board members, I'll try to be  
2 brief. In speaking, specifically, to the evidence that you've heard, I would  
3 submit to you that there is a lack of evidence of operations outside of the  
4 HI property, there is a lack of foundation with respect to the testimony  
5 concerning the GPS. Mr. Calloway testified that --- I believe he testified  
6 and I'm certainly not trying to mischaracterize his testimony --- but that the  
7 GIS map that was provided to Zoning staff was not, necessarily, accurate  
8 with respect to the HI portion of the property. So, I would submit to you  
9 also, that staff did not ---- and there is no evidence demonstrating that there  
10 is a lack of continued non-conforming use. The non-conforming use  
11 Ordinance, 11.06 addresses --- (b) --- addresses non-conforming uses and I  
12 believe the testimony was regarding, from Mr. Calloway, was regarding  
13 the truck --- diesel truck repair operations. The Statute that our --- excuse  
14 me, the Ordinance that I just cited, talks about non-conforming uses and  
15 the issue isn't whether it's the same, it's whether it is equal of less  
16 intensity. And so, it doesn't have to be continuing use for diesel truck  
17 repair. I would submit to you that this is a similar operation to diesel truck  
18 repair, and given how that property was used for that purpose. So, in that  
19 regard, I think I've addressed the conforming use that there's also a lack of  
20 evidence regarding the extent of the alleged non-conforming use on the  
21 AG property. Not only to the area, but as to what those uses, in fact, were.  
22 And so, those are two basis for the Appeal, the other basis for the Appeal is  
23 a "floating zoning", which has gotten a lot of discussion because folks  
24 hadn't heard of it. Well, you heard testimony from the Closing Attorney,  
25 and I would submit to you that that issues, as well as what, undoubtedly, be

1 extensive evidence and testimony presented to the Planning Board for their  
2 determination that the rezoning is the economic impact of this operation,  
3 that his intentions and actions and investment, with ensuring compliance,  
4 ensuring that they're not violations with respect to environmental harms, et  
5 cetera, et cetera, that is a plethora of evidence and five-hundred forty-six  
6 (546) signatures on a petition that will be presented is not at the Rezoning  
7 Hearing and before that Board to appropriately make that determination.  
8 So, the "floating rezoning" for your consideration, I would submit, is an  
9 equitable consideration since you understand the context under which  
10 Cardinal Metals acquired the property and set forth on its operations. That  
11 would go, also, to --- and would discuss the penalty issue, I would submit  
12 to you that there was lack of evidence of the violation. I would also submit  
13 to you that --- and I agree with Counsel for the County, that Mr. Baisden  
14 has been very cooperative, is trying to --- and as I said in my Opening,  
15 trying --- in my request for a continuance, trying to do what the County  
16 preferred that he do, in terms of seeking the rezoning. I would also agree  
17 with Counsel, that should the Board make a determination on the NOV this  
18 evening, that it would delay any determination on a penalty and allow the  
19 parties to undertake mediation, Alternative Dispute Resolution, which is  
20 relevant to 160.d-405, which I have mentioned also earlier in the evening.  
21 So, thank you very much for your consideration.

22 MS. MILLER: At this time, I  
23 would like for someone to, possibly, entertain a  
24 motion for a Closed Session.

25 MR. JOHNSON: I make a motion

1 that we go into Closed Session to discuss the  
2 Findings.

3 MR. STANDLEY: Second.

4 MR. ELKAN: If I might, if it's not  
5 going to be appropriate to go into Closed  
6 Session, just to discuss the Findings. It is  
7 appropriate to go into Closed Session to consult  
8 with the Board's attorney, if the Board wishes to  
9 consult with the attorney.

10 MR. JOHNSON: Oh, okay. I said it  
11 wrong, but you heard it right.

12 MS. MILLER: All right, so we have  
13 motion and a second to go into Closed Session to  
14 discuss with the attorney.

15 (Thereupon, Mr. Calloway conducted a roll-call vote and the  
16 Board members voted unanimously in favor of the Closed  
17 Session)

18 (Thereupon, the Board members left the room to go into  
19 Closed Session at 10:02 p.m. until 10:21 o'clock p.m.  
20 at which time the Board returned to Open Session)

21 MS. MILLER: All right, let's  
22 have a motion to come back into Oppen Session)

23 MR. JOHNSON: I make a motion  
24 that we come back into Open Session.

25 MR. STANDLEY: Second.

1 (Thereupon, Mr. Calloway conducted a roll-call vote and the  
2 Board members voted unanimously in favor of the Open  
3 Session)

4  
5 MS. MILLER: Thank you very  
6 much. All right, after discussion, do we have a  
7 motion on this case?

8 MR. HAVENS: I want to make a  
9 motion. Bear with me, my voice may be worse  
10 than hers tonight. I move that we find the County  
11 did prove a violation of the Uniform Development  
12 Ordinance, as stated in the Notice of Violation  
13 by the greater weight of the evidence.

14 MR. JOHNSON: Second.

15 MS. MILLER: A motion has been  
16 made and seconded. Please take the roll-call vote.

17 (Thereupon, Mr. Calloway conducted a roll-call vote and the  
18 Board members voted unanimously in favor of the motion)

19 MS. MILLER: Are there any  
20 additional motions that need to be made?

21 MR. HAVENS: Yes, I move that  
22 we find the applicant did not prove a lawful non-  
23 conforming use by the greater weight of the  
24 evidence.

25 MR. JOHNSON: Second.

1 MS. MILLER: We have a motion  
2 that's been seconded. Call the roll, please  
3 (Thereupon, Mr. Calloway conducted a roll-call vote and the  
4 Board members voted unanimously in favor of the motion)

5 MS. MILLER: Motion passes.  
6 Are there any additional motions:

7 MR. HAVENS: Yes, I have one (1) final  
8 motion. I move that we find that the Appellant  
9 did not prove that the County is stopped from  
10 enforcing the violation of the Uniform  
11 Development Ordinance by the greater weight of  
12 the evidence.

13 MS. MILLER: Motion has been  
14 made, do we have a second?

15 MR. JOHNSON: Second.

16 MS. MILLER: A motion has been  
17 made and seconded.

18 (Thereupon, Mr. Calloway conducted a roll-call vote and the  
19 Board members voted unanimously in favor of the motion)

20 MS. MILLER: The motion is  
21 approved. Deputy Attorney Reaves, I would like  
22 to request that you draft a proposed Order to send  
23 to Mr. Elkan for review and after agreed-upon  
24 changes, if any, Mr. Elkan, if you would, send it  
25 to the Board through Mr. Mason and the Board

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

will vote and adopt a formal Order at our next meeting.

MS. REAVES: Yes, Madam Chair.

MS. MILLER: Thank you. And that ends this case for the evening.

(Thereupon, the Board continued to the business items on the Agenda)

(Thereupon, the October 2023 Board of Adjustment meeting ended at 10:29 o'clock p.m.)

-----

**C E R T I F I C A T E**

STATE OF NORTH CAROLINA )

COUNTY OF GUILFORD )

I, Judith H. Decker, Court Reporter and a Notary Public,  
duly appointed and qualified in and for the County of Guilford and State of  
North Carolina, do hereby certify:

That said meeting was reported by me and the foregoing  
transcript is a true record, to the best of my knowledge and belief.

That I am neither attorney or counsel for, nor related to or  
employed by any of the parties to the action in which this transcript is  
taken, and further that I am not a relative or employee of any attorney or  
counsel employed by the parties hereto, nor interested directly or indirectly  
in the matter, or financially interested in the actions conducted during the  
meeting.

Certified this \_\_\_\_ day of October, 2023

---

NOTARY PUBLIC, COUNTY OF GUILFORD  
STATE OF NORTH CAROLINA  
NOTARY NUMBER: 11953450037  
MY COMMISSION EXPIRES: MARCH 27, 2026

Triad Reporting & Typing Services  
*Verbatim Court Reporters*  
4106 Hobbs Road  
Greensboro, NC 27410  
(336) 317-7492



1	<b>1</b>	38	Exparte, 90
2	160.d-405, 11, 128	39	<b>F</b>
3	<b>A</b>	40	Findings of Fact, 5, 8
4	Aaron Calloway, 2, 12, 13, 14, 24, 25, 80	41	<b>G</b>
5	aerial photograph, 65, 66	42	GIS, 54, 55, 56, 67, 82, 86, 88, 123, 127
6	AG-zoned district, 13	43	GPS coordinates, 81
7	Alex Elkan, 6	44	grading,, 93
8	Appeal, 3, 7, 8, 12, 14, 19, 23, 27, 31, 36, 37, 39,	45	<b>H</b>
9	40, 41, 50, 51, 57, 63, 64, 73, 74, 112, 127	46	HI zoned portion, 9
10	Authority, 1	47	<b>K</b>
11	<b>C</b>	48	Kaye Graybeal, 2, 13, 79, 80, 82
12	Cardinal Metals, 6, 8, 10, 12, 18, 26, 27, 40, 51,	49	<b>M</b>
13	53, 66, 74, 83, 84, 96, 100, 102, 108, 128	50	Matrix Use Tables, 34
14	Closed Session, 91, 121, 124, 128, 129	51	Mr. Baisden, 9, 13, 21, 57, 58, 66, 76, 77, 78, 83,
15	Closing Arguments, 122	52	84, 85, 86, 88, 126, 128
16	<b>CLOSING ARGUMENTS – APPELLANT, 126</b>	53	Mr. Bass, 10, 15, 33, 34, 39, 45, 46, 52, 53, 57, 58,
17	<b>CLOSING ARGUMENTS - COUNTY, 123</b>	54	69, 75, 78, 79, 85, 86, 87, 88, 89, 124
18	Conditional Zoning, 10, 41, 42, 74, 124	55	<b>N</b>
19	continuance, 6, 19, 22, 128	56	Notice of Violation, 9, 12, 19, 28, 32, 36, 37, 38,
20	<b>CROSS EXAMINATION, 57, 75, 87</b>	57	39, 50, 51, 54, 57, 126, 130
21	<b>D</b>	58	NOV, 8, 12, 13, 14, 18, 32, 60, 126, 128
22	<b>DIRECT EXAMINATION, 26, 69, 80</b>	59	<b>O</b>
23	<b>DIRECT EXAMINATON, 83</b>	60	Order, 8, 131
24	<b>E</b>	61	<b>P</b>
25	Evidentiary Hearing, 7	62	parcel #144107, 54
26	Exhibit #1, 37, 60, 64	63	<b>Q</b>
27	Exhibit #10, 56	64	quasi-judicial Board, 5
28	Exhibit #12, 14		
29	Exhibit #13, 14		
30	Exhibit #2, 45, 46, 47		
31	Exhibit #4, 54, 55		
32	Exhibit #5, 36, 37, 39		
33	Exhibit #6, 52, 53		
34	Exhibit #8, 30		
35	Exhibit #9,, 33		
36	Exhibit 8, 29, 31		
37	Exhibits 8 and 4, 12		

1	<b>R</b>	10	sketch plan, 9, 14, 72
2	Randal L. Baisden, 12	11	survey, 10, 15, 19, 76, 90, 114, 120, 123, 126
3	recess, 90, 91	12	<b>U</b>
4	<b>RECROSS EXAMINATION</b> , 79	13	underground retentions, 93
5	<b>REDIRECT EXAMINATION</b> , 78	14	Use-Matrix, 13
6	Rezoning Application, 6, 71, 72, 73, 74	15	<b>V</b>
7	<b>S</b>	16	Voting Session, 132
8	Section 10.03.B.1, 38, 39		
9	Sections 10.03, 38		